

Oregon State Bar

Paraprofessional Licensing Implementation Committee

LICENSING RECOMMENDATIONS

Report to the Board of Governors

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STAFF SUMMARY

The OSB Board of Governors created the Paraprofessional Licensing Implementation Committee in 2019. The purpose of the committee was to fulfill the OSB Futures Task Force recommendation of creating a proposal to the Oregon Supreme Court for the establishment of a limited-scope license program for paralegals. The Committee, chaired by Senior Judge Kristen Thompson, has met regularly since the fall of 2020.

This report includes committee recommendations related to scope of licensure, educational and experiential requirements for licensure, continuing legal education, the regulatory framework under which a licensure program would operate, and many other topics.

The committee recommends that a licensed paralegal program be established to permit limited scope representation in family law and landlord tenant cases only. In general, LPs would be permitted to assist clients, and offer guidance on court procedures, but would not affirmatively represent clients in court. Details are laid out in the full report.

That recommendation includes a general requirement that licensed paralegals be required to have a degree in paralegal studies and have a minimum of 1500 hours of experience working under attorney supervision prior to licensure. Licensure would also be subject to an evaluation of applicant competence and applicants would be subject to a character and fitness evaluation. Additional pathways to licensure are also discussed in the full report.

Further, the committee recommends that licensed paralegals be subject to many of the same regulatory requirements as attorneys, including mandatory PLF coverage, the use of IOLTA accounts, contributions to the Client Security Fund, and that they be subject to the Oregon Rules of Professional Conduct. The committee specifically recommends that licensed paralegals be subject to the same restrictions on fee sharing and firm ownership as currently apply to attorneys.

The Oregon State Bar would like to offer its thanks to the members of the committee and to the dozens of other advisory members and interested parties who have contributed their time and effort throughout this process, and without whose contributions this report would not be possible.

BACKGROUND

At its September 27, 2019 meeting, the Oregon State Bar (OSB) Board of Governors (BOG) unanimously voted to convene an implementation committee for the establishment of a limited-scope license program for paralegals. This recommendation had been made to the BOG in the 2017 Futures Task Force

Report¹. The limited-scope license would allow individuals who might not have a law degree, but who meet other rigorous qualifications, to provide defined legal services specifically in family law and landlord-tenant matters – two areas where a large segment of the public struggles to afford legal help.

Before making its decision to proceed, the BOG sought member input and engaged in multiple discussions with lawyers and judges, community members, and leaders throughout Oregon. After discussion and review, the BOG was persuaded to move forward by its public service mission to advance a fair, inclusive, and accessible justice system.

Despite the best efforts and generosity of Oregon lawyers over decades, the access-to-justice gap remains vast and largely unmoved. Data shows that among legal aid eligible Oregonians, 84 percent of those with a civil legal problem are unable to access legal help², and persons of color throughout the state have a disproportionately large number of legal problems³.

Additionally, since 2016 over 70% of dissolution cases involved at least one self-represented litigant. Further, only about 17 percent of all parties in residential eviction proceedings are represented by lawyers⁴. This puts substantial strain on the courts, contributes to inequality, and erodes the public's trust in the legal system.

The goal of licensing paralegals to provide limited legal services is to provide consumers with an additional option in many of these cases where we know most parties are unrepresented. Thus, with its public service mission in mind, the BOG approved the creation of an implementation committee to develop a licensed paraprofessional program as recommended by the 2017 Futures Task Force Report.

In 2020, the BOG appointed Senior Judge Kirsten Thompson to chair the Paraprofessional Licensing Implementation Committee (the Committee) and established the following charge for the Committee:

Engage stakeholders to develop a regulatory framework for licensing paralegals consistent with the recommendations of the OSB Futures Task

- 1 The [Futures Task Force Executive Summary](#) and the [full report of the Futures Task Force](#) can be found on the OSB website.
- 2 Barriers to Justice, A 2018 Study Measuring The Civil Legal Needs Of Low-Income Oregonians; Published February 2019; page 4; available at <https://olf.osbar.org/files/2019/02/Barriers-to-Justice-2018-OR-Civil-Legal-Needs-Study.pdf>.
- 3 Barriers to Justice, pp 9-10. The report describes systemic discrimination facing African American, Native American, Latinx, and Asian American respondents. All groups face a wide range of legal problems at rates higher than white respondents.
- 4 According to case count data provided by the Oregon Judicial Department, of cases that closed between 2016 and 2021 over 83% of all parties in Landlord/Tenant cases were unrepresented. In dissolution cases 71% were unrepresented. In other Domestic Relations cases 55% were unrepresented. For civil cases generally, 51% of parties were not represented by an attorney.

Force Report in order to increase access to the justice system while ensuring the competence and integrity of the licensed paralegals and improving the quality of their legal services.

Beginning in the fall of 2020, the Committee has met regularly. The agendas, minutes, and other resources informing the work are updated regularly and available on the [OSB website](#). The [July OSB Bulletin](#) included an article about the program, and Judge Thompson has given the Oregon Supreme Court updates about the Committee's work at the court's meetings in December 2020, March 2021, and July 2021.

The Committee considered the experiences of other states that have implemented various types of limited scope licenses to provide legal services. Currently, Arizona, Utah and Washington have legal paraprofessional programs of various types. California is moving forward with a proposal that is currently undergoing a public comment period. Minnesota is in the first year of a pilot project, that will run through 2023. In Canada, Ontario has a longstanding paraprofessional program and Saskatchewan is exploring creating one.

The Committee was made up of two judges, two paralegals, two attorneys that practice family law, two attorneys that practice landlord/tenant law, a representative of the New Lawyers Division and a Public Member. An advisory group was created to provide the full committee with additional input. The advisory members includes representatives from the OSB House of Delegates, Oregon's three law schools, legal aid, the Oregon Trial Lawyers Association, the Oregon Association of Defense Counsel, the Oregon Circuit Court Judges Association, Oregon Community Colleges and other interested persons⁵.

The Committee created three workgroups that focused on different tasks necessary to create the Committee's recommendations: the Regulation Workgroup, the Admissions and Education Workgroup, and the Stakeholders Workgroup. The workgroups met in breakout sessions on most of the same meeting dates as the full Committee, as well as during special separately scheduled sessions. The workgroup also received substantial, invaluable assistance from advisory members, who actively participated in workgroup discussions, and from OSB staff.

The recommendations of the Regulation Workgroup focus primarily on scope of practice, including describing types of cases in both family law and landlord-tenant law that should be inside and outside of the licensed paralegal (LP) scope of licensure. Additionally the Regulation Workgroup makes recommendations for regulation upon licensure and discusses next steps in terms of other statutes and rules that would need updated if LP licensure is implemented.

The recommendations of the Admissions and Education Workgroup focus primarily on the qualifications that licensees would need to meet before

5 Rosters are available on the [OSB website](#).

licensure, as well as on continuing legal education (CLE) requirements. These recommendations include both formal educational requirements and experiential requirements. The recommendations include multiple pathways to licensure, suggestions of core competencies before licensure, and recommendations for CLE requirements, both as prerequisites to licensure and on an ongoing basis.

Multiple pathways to licensure are provided to ensure that licensure is not limited to a narrow segment of Oregonians who have a specific background, but is open to all Oregonians. Many highly qualified paralegals with considerable experience come from diverse backgrounds and many do not have academic degrees in a law related field. The Committee is sensitive to the importance of accommodating this reality, as was recommended by the Futures Task Force.

REGULATION WORKGROUP RECOMMENDATIONS

The Regulation Workgroup was charged with recommending a state-level regulatory framework for implementing paraprofessional licensing. This framework includes defining the scope of practice⁶ for LPs in two specific subject-matter areas (family law and landlord-tenant law), recommending appropriate tasks for LPs within that scope of practice, and identifying current or new regulations and rules to be revised or added to address the licensing of LPs.

1. Scope of Practice – Family Law⁷

The Committee recommends that LPs be authorized to practice family law within the parameters listed below. The list includes specific actions within family law matters that LPs should be allowed to engage in, as well as specific subject areas in which LP participation should be allowed. Finally, specific types of family law cases that the workgroup recommends should be outside the scope of an LP's practice (that LPs should not be allowed to engage in) are also provided. These recommendations were based on the experience of the workgroup members; input from the Committee as a whole, advisory members, and interested outside parties; and a review of the work of other states addressing similar issues. In particular, the workgroup considered whether a subject area or procedure is typically considered especially difficult or complex, and what might benefit the greatest number of family law or landlord-tenant litigants who might otherwise be self-represented and could benefit from the assistance of an LP.

6 Scope of practice limitations included in this report focus on LPs who are not working under the direct supervision of an attorney. As with paralegals, LPs who are working under the direct supervision of an attorney would not be restricted in the types of cases with which they could assist.

7 For purposes of this report, "family law" is considered to generally encompass the following areas: dissolution of marriage, separation, annulment, custody, parenting time, child support, spousal support, modifications, and remedial contempt.

a. Family Law Tasks within the Scope of LP Practice

The Committee recommends that LPs be allowed to engage in the following tasks in the course of a family law case (within the subject-matter limitations listed below):

- *Meet with potential clients to evaluate and determine needs and goals, and advise.* As part of such a meeting, the LP would make an initial determination whether the potential client's concerns are within the scope of the LP's practice or whether a referral to an attorney would be appropriate.
- *Enter a contractual relationship to represent a natural person (not including a business entity).* Most family law litigants are "natural persons." Very few family law litigants are business entities, and those that are business entities usually come into family law cases through more complex procedural mechanisms such as intervention or interpleading. Allowing LPs to represent only natural persons in family law cases would not unduly limit the kinds of cases they could engage in and is consistent with the workgroup's recommendation that LPs not engage in cases involving interpleading or intervenors.
- *Assist by completing pattern forms and drafting and serving pleadings and documents, including orders and judgments.* In many basic cases, standard documents and pleadings are already available through the Oregon Judicial Department (OJD) or local courts. In such situations, LPs would be able to assist litigants in form selection and completion, much as family law courthouse facilitators do currently. Unfortunately, not all counties have courthouse facilitators, and even those that do may not be able to assist all self-represented litigants, particularly those who are not fluent in English. LPs would be able to explain the purpose of documents to litigants, help determine the appropriate document to use, help customize the information provided in the documents or pleadings to the litigants' benefit, and provide clarity and accuracy in filling out the documents consistent with the requirements of case law, Oregon Revised Statutes, Oregon Rules of Civil Procedure, Uniform Trial Court Rules, and Supplementary Local Rules. LP assistance with pleadings would also presumably help to clarify the nature of a litigant's position for the opposing party and the court and enable the court to proceed more efficiently.
- *File documents and pleadings with the court.* Many documents are now required to be filed with the court electronically. While some courts provide access to self-represented litigants for electronic filing, it may be difficult or confusing, especially for those not used to doing so, who are not fluent in English, or who need to file after physical access to the court is closed. LPs could assist such litigants, presumably at a lower cost than most attorneys.
- *Assist by drafting, serving, and completing discovery and issuing subpoenas.* Family law discovery practice often includes such procedures and pleadings as requests for production of documents, responses to requests for production

of documents, protective orders, drafting and advising on motions to compel, conferring with the opposing party or their representative, subpoenas, uniform support declarations, requests for admissions, and motions for and responses to motions for the following: custody and parenting time evaluations, drug and alcohol assessments, psychological evaluations, inspection of property, real and personal property appraisals, and vocational assessments. Requesting or responding to such requests are often crucial for the just determination of family law matters. Competent and comprehensive discovery practice can be time-consuming and require substantial follow-up. The rules and requirements related to discovery practice may also be complex and confusing for those not familiar with them. LPs would be familiar with discovery requirements and procedures and be able to assist litigants in this crucial aspect of the process.

- *Attend depositions, but not take or defend them.* The Committee recommends that LPs be permitted to assist with scheduling and compelling deposition appearances and preparing clients for being deposed and for taking a deposition, but that they not be allowed to take depositions or defend them. This restriction is based on depositions being a form of testimony under oath that requires knowledge and application of the rules of evidence to preserve objections or other evidentiary issues for possible later use in court. Knowledge and application of the Evidence Code is a basic skill required for taking and defending a deposition that is beyond the scope of LP practice (and likely training).
- *Prepare for, participate in, and represent a party in settlement discussions, including mediation and settlement meetings.* LPs would help enforce the requirement that litigants attend alternative dispute resolution, advise clients in advance on what to expect, and help them prepare so that such sessions might be more efficient and effective.
- *Prepare parties for judicial settlement conferences.*
- *Participate and assist with hearing, trial, and arbitration preparation.* LPs would prepare clients for court appearances (e.g., prepare clients for direct-examination, cross-examination, and oral argument; issue subpoenas; prepare witnesses; prepare and submit exhibits; draft asset and liability statements; and write memoranda to provide to the court).
- *Attend court appearances to provide support and assistance in procedural and ex parte matters.* LPs would be allowed to sit at counsel table during court appearances and respond to questions by the court in standard procedural family law appearances, ex parte matters, evidentiary proceedings, and informal domestic relations trials. LPs would not affirmatively represent a client directly during evidentiary hearings or other similar court appearances. For example, an LP would not be allowed to make evidentiary objections, offer exhibits, or question witnesses.

- *Review opinion letters, court orders, and notices with a client and explain how they affect the client, including the right to appeal.* Informing litigants about the significance of a court's determination and the right to appeal and the related timing would be an important service, even if LPs are restricted from assisting in the appeals process. LPs could also provide referrals if a client is considering an appeal.
- *Refer clients to attorneys for tasks or subject matter outside the scope of LP representation.* This ongoing obligation would be a requirement throughout an LP's representation, especially if the case came to include something beyond the LP's original expectation during the initial assessment.

b. Family Law Practice outside the Scope of LP Representation

The Committee recommends that the following types of cases, sometimes broadly considered part of or related to family law, be outside an LP's scope of practice:

- *Appeals (administrative, trial court, and court of appeals), except de novo appeals to the circuit court of administrative determinations to establish or modify child support.* Appeals have their own procedural rules and deadlines and can be quite complicated. This is especially true of appeals from trial court determinations and decisions of the Oregon Court of Appeals. While some self-represented family law litigants manage to navigate the process on their own, the small volume of such parties makes this complicated area less compelling for inclusion as a part of LP practice at this time, especially when balancing the potential benefit compared to the additional training LP candidates would require to be proficient. In the future, if there is substantial demand from self-represented litigants for LP assistance with appeals, expansion into this substantive area (with the requirement of additional education) could be considered.

There is, however, a situation in which LP assistance in an "appeal" should be permitted. In certain circumstances, appeals of administrative child support judgments may be taken to the circuit court for a hearing de novo. ORS 25.513(6). When such appeals concern the establishment or modification of child support, they involve a circumscribed and limited subject matter area that primarily covers information an LP would be expected to know already as part of a circuit court trial-level practice. If LPs are permitted to assist in the preparation of cases before a trial court to establish or modify child support, they should be permitted to assist in the preparation of de novo appeals from administrative child support determinations in these specific instances as well.

- *Stalking protective orders.* This area of the law often involves unrelated parties, falls under a separate chapter of the Oregon Revised Statutes, and is not customarily seen as falling within the area of family law (or landlord-tenant law).

- *Juvenile court cases (dependency or delinquency).* Both dependency and delinquency law are complex, fall under an entirely different statutory framework than family law cases, and involve multiple parties. Delinquency cases are similar to adult criminal cases and require an understanding of criminal law. Dependency cases almost always involve Child Protective Services and can lead to a termination of parental rights. Financially qualified trial-level litigants are generally entitled to court-appointed counsel in both types of juvenile court proceedings. These factors mitigate against allowing LPs to represent litigants if juvenile court cases are involved.

However, there are some juvenile dependency situations where limited LP assistance might be appropriate. In family law cases with consolidated or related associated juvenile court proceedings where juvenile court involvement may not be initiated or may be dismissed if a divorce, separation, custody case, or modification is initiated (and child custody therefore secured for a protective parent), limited LP assistance in the family law case may be appropriate. This is especially true since court-appointed counsel in juvenile dependency cases often refuse to assist clients in their family law action because it would be outside the terms of their appointment contract. Allowing an LP to assist in a divorce related to a juvenile court proceeding would, of course, apply only if the associated divorce proceedings were also otherwise within the LP's scope of practice.

- *Modifications of custody, parenting time, or child support when the initial court order originates outside Oregon.* When the initial court order originated outside Oregon, modifications of custody and parenting time may require application of the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). Modifying a child-support order when the initial court order originated outside Oregon may require application of the Uniform Interstate Family Support Act (UIFSA). Both statutes are complex and may require contact and working with officials from other jurisdictions. It is not likely that restricting LP practice in this more complicated area would dramatically limit the number of possible cases available for LPs.
- *Premarital or postnuptial agreements (drafting, reviewing, or litigating).* Premarital and postnuptial agreements often involve substantial or complicated assets and may have significant consequences if not properly drafted or implemented. If significant assets are in play and something is found to have "gone wrong" with the drafting, there may be substantial malpractice liability. Such agreements may also be considered contracts, with contract law applied to their interpretation and enforcement. As such, including these agreements in LP practice would require extensive additional education in contract law, outside the normal scope of family law. Additionally, in the experience of the family law practitioners on the workgroup, premarital and postnuptial agreements do not comprise a large portion of family law practice, and restricting LPs from this type of work would not substantially impact the number of litigants likely to seek LP assistance.

- *Cohabitation agreements (drafting, reviewing, or litigating)*. As with premarital and postnuptial agreements, cohabitation agreements involve primarily contract law and are not within traditional family law practice. Including these agreements in LP practice would require extensive additional education in contract law, outside the normal scope of family law.
- *Qualified domestic relations orders (QDROs) and domestic relations orders (DROs) (drafting, reviewing, or litigating)*. Drafting DROs can be complex with substantial monetary consequences if mistakes are made. As a result, many attorneys who practice primarily or even exclusively in family law often get assistance from specialized attorneys for QDROs and DROs. While prohibited from drafting such provisions themselves, LPs should be allowed to use language for QDROs and DROs provided by these specialized attorneys.
- *Third-party custody and visitation cases (ORS 109.119)*. The statute involved in third-party custody and visitation cases is quite complex. Multiple parties may be involved. Specific detailed and necessary facts must be alleged. Other forms of relief, such as those involving guardianship of a minor, may also be implicated. The subject area is best left to attorneys.
- *Unregistered domestic partnerships (“Beal v. Beal cases”)*. Litigation involving unregistered domestic partnerships (as opposed to registered domestic partnerships) can be contract cases or de facto spouse cases involving complicated issues, case law, and the application of facts to the law, including contract law. Including this area of law in LP practice would require extensive additional education in contract law, outside the normal scope of family law.
- *Cases with third-party intervenors*. Specific facts must be alleged to intervene, resulting often in more complicated procedural requirements.
- *Military divorces unless stipulated*. These cases often involve the Servicemembers Civil Relief Act (SCRA) and military retirement benefits and requirements that can be extremely complex. Even with this complexity, when both parties agree on the dissolution terms, it seems reasonable to allow LPs to assist in finalizing the divorce. A note of caution is warranted: while an LP should be allowed to work on military divorces when the parties agree to all dissolution terms, it would be wise in such situations for a litigant to consult with an attorney well versed in military divorces to understand the impact of what they are agreeing to and for the LP to insist that such a consultation occur before helping to memorialize the divorce terms.
- *Remedial contempt when confinement is requested*. Contempt can be punitive or remedial. Punitive contempt can be initiated only by a district attorney, may result in confinement, and is therefore more like a criminal proceeding, which is outside the scope of family law practice. Remedial contempt, when there is a request for confinement, is similar in that regard and therefore should be outside the scope of LP practice as well. LPs should

be able to assist with remedial contempt only when confinement is not before the court.

- *Stand-alone Family Abuse Prevention Act (FAPA) cases (ORS 107.700–107.735)*. Petitioners in FAPA cases can often access no-cost assistance from outside advocates available in many courthouses. Respondents seldom have that option. For many respondents, FAPA cases can raise the prospect of additional significant related legal actions being filed against them, including criminal complaints or juvenile court petitions. The decisions made in responding to a FAPA order may also implicate such things as access to the party's child or the ability to possess a firearm. While the consequences of the FAPA case alone may have a huge impact on the litigants, adding the possible additional major legal repercussions make the situation even more complex. Competent advice to a respondent in a FAPA case should always include consideration of other possible legal implications. Therefore, LPs should not, in general, represent litigants in FAPA cases.

However, concern has also been expressed that if LPs are prohibited from representing litigants if a FAPA claim is raised, then an opposing party may raise a baseless FAPA claim in order to disqualify an otherwise competent LP from a divorce case. Therefore, the Committee recommends that if an LP represents a party in an already-existing family law matter, that LP should not be disqualified from continuing such representation if the opposing party files a FAPA petition. In that scenario, the LP should be allowed to continue representing the FAPA respondent or petitioner, with the strong recommendation to have their client consult with an appropriate attorney regarding possible related legal consequences.

- *Elderly Persons and Persons with Disabilities Abuse Prevention Act (EPPDAPA) cases, Sexual Abuse Protection Order (SAPO) cases, guardianships, and adoptions*. All of these listed areas of law are outside the standard area of family law practice. Guardianships and adoptions in particular are complex and have their own specific procedural requirements. EPPDAPA and SAPO cases have concerns similar to those for FAPA cases, as cited above. Therefore, cases that involve EPPDAPA, SAPO, guardianships, or adoptions should be excluded from LP practice.

2. Scope of Practice – Landlord-Tenant Law

The Committee recommends that LPs be authorized to offer guidance, document preparation services, and courtroom representation on landlord-tenant matters as outlined below. It is anticipated that granting LPs authority to serve in this capacity will increase the availability of legal services to both landlords and tenants and help close the access-to-justice gap. The consequences of not having access to legal assistance in landlord-tenant matters can be severe. Tenants may be evicted despite having meritorious defenses, and they may be unable to obtain basic housing rights guaranteed by the Oregon Residential Landlord and Tenant Act (ORLTA, ORS chapter 90),

including freedom from illegal treatment and access to decent, safe, and sanitary housing. Landlords can need guidance in following the law and may not understand their rights or responsibilities, which may have substantial financial consequences. For example, errors in a required written notice may cause the notice to be defective, delay a meritorious eviction, or cause the loss of an eviction lawsuit resulting in the potential for attorney fees against the landlord even when their claim is well founded.

Landlords already enjoy the option of representation in circuit court forcible eviction and detainer actions (FEDs) by a nonlawyer agent (ORS 105.130(4)). Such nonlawyer agents, however, are likely to represent those landlords that have a large number of residential tenants and are in court often. Landlords with a small number of residential rental units and who are not in court often are less likely to have access to the services of nonlawyer agents already allowed in FED actions. Tenants do not enjoy a reciprocal right to nonlawyer assistance. Authorizing LPs in landlord-tenant cases would help balance this disparity by providing both tenants and “small number” landlords the option of working with a knowledgeable LP. Landlords who currently rely on nonlawyer agents would also have the additional choice of representation by an LP who is trained, licensed, and covered by the Professional Liability Fund (PLF).

The Committee recommends that LPs’ scope of practice on landlord-tenant issues be limited to those concerning residential rental agreements under ORLTA and the FED provisions found at ORS 105.126–105.168. The scope of practice would be limited to only residential tenancies. The specific types of cases that the Committee recommends should be outside the scope of an LP’s practice in landlord-tenant cases (that LPs should not be allowed to engage in) are clarified below. These recommendations were based on the experience of Committee advisory members experienced in landlord-tenant law, (including both private practitioners and those who provide representation through legal aid), input from the Committee as a whole, and input from interested outside parties. In particular, in deciding whether a specific case should be outside the scope of LP representation, the Committee considered whether a subject area or procedure is typically especially difficult or complex, and what might benefit the greatest number of landlord-tenant litigants who might otherwise be self-represented and could benefit from the assistance of an LP.

a. Landlord-Tenant Law Tasks within the Scope of LP Practice

The Committee recommends that LPs be allowed to engage in the following tasks in the course of a landlord-tenant case within the subject-matter limitations listed below:

- *Enter into a contractual relationship to represent a natural person or a business entity.* LPs should be available to assist tenants or landlords, especially those who might not otherwise have access to legal advice. While tenants are likely to be natural persons, landlords in need of such assistance may also be proceeding as a business entity. LPs, therefore, should be able

to contract with both natural persons and business entities on landlord-tenant matters.

- *Meet with potential clients to evaluate and determine needs, goals, and advise on claims or defenses (e.g., notices of intent to terminate tenancy, inspection of premises, rent increase).* Prospective clients should be able to meet with LPs regarding landlord-tenant matters whenever needed to determine the best way to proceed and to start whatever process might be necessary. LPs may be an especially important source of legal information for litigants with limited financial resources (e.g., those who are not able to obtain representation from legal aid) or from geographic areas of the state where there are few attorneys who practice landlord-tenant law. In addition, LPs who are fluent in languages other than English may provide essential services especially to non-English speaking tenants.
- *Review, prepare, and provide advice regarding a variety of documents, including pleadings, notices, orders, and judgments.* The types of documents LPs would be authorized to review would include but not be limited to residential leases and rental agreements, amendments to rental agreements, eviction notices, notices of intent to enter rental property, rent increase notices, demand letters, notices of violation, and security deposit accountings.
- *File documents and pleadings with the court.* Litigation regarding residential tenancies can occur through small claims court actions as well as FED litigation. Examples of the types of documents LPs would be authorized to help prepare and file in small claims actions include but are not limited to small claims and notices of small claims, responses, trial exhibits, and memoranda. Examples of the types of documents LPs would be authorized to help prepare and file in FED litigation include but are not limited to complaints, answers (including tenant counterclaims), replies to counterclaims and affirmative defenses, subpoenas, trial exhibits, FED stipulated agreements (ORS 105.145(2)), declarations of noncompliance (ORS 105.146(4)), requests for hearing on declarations of noncompliance (ORS 105.148), notices of restitution, and writs of execution.
- *Assist in obtaining continuance requests to allow parties to make discovery requests or obtain other discovery.* Expedited FED timelines make most discovery impractical. However, landlords may request continuances, and tenants may request continuances if they pay rent into court (ORS 105.140(2)). LPs could provide this information to litigants and assist in the discovery process if the continuance was allowed.
- *Attend depositions, but not take or defend them.* While discovery timelines for FED cases can make depositions impractical, they require only “reasonable notice,” which case law has found to be satisfied with two days’ notice. LPs would be able to work with tenants to assist with this expedited timeframe,

including scheduling and compelling deposition appearances and preparing clients for being deposed and for taking a deposition.

The Committee recommends that LPs be permitted to assist with depositions, but that they not be allowed to take depositions or defend them. This restriction is based on depositions being a form of testimony under oath that requires knowledge and application of the rules of evidence to preserve objections or other evidentiary issues for possible later use in court. Knowledge and application of the Evidence Code is a basic skill required for taking and defending a deposition that is beyond the scope of LP practice (and likely training).

- *Participate, prepare for, and represent a party in settlement discussions, including mediation and settlement meetings.* Negotiations in landlord-tenant cases often occur the day of the initial court appearance. Being able to consult with an LP in advance of the initial court appearance would allow a litigant to become informed about what to expect and what the negotiation process would likely entail. It could also help those new to the process understand the strength or weakness of their position ahead of time from an informed perspective, resulting in more reasonable, just, and efficient outcomes.
- *Prepare parties for judicial settlement conferences.*
- *Participate and assist with hearing and trial preparation.* LPs should be allowed to prepare clients for court appearances (e.g., direct examination and cross-examination, oral argument, exhibit preparation and submission, and memoranda to the court).
- *Attend court appearances to provide permitted support and assistance in procedural matters.* LPs would be allowed to sit at counsel table during court appearances and respond to questions by the court. LPs would not affirmatively represent a client directly during evidentiary hearings or other similar court appearances. For example, an LP would not be permitted to make evidentiary objections, offer exhibits, or question witnesses, but would be able to assist their client in doing so.
- *Review opinion letters, court orders, and notices with a client and explain how they affect the client, including the right to appeal.* Informing litigants about the significance of a court's determination and the right to appeal and the related timing would be an important service, even if LPs are restricted from assisting in the appeals process. *LPs could also provide referrals if a client is considering an appeal.*
- *Refer clients to attorneys for tasks or subject matter outside the scope of LP representation.* This ongoing obligation would be a requirement throughout an LP's representation, especially if the case came to include something beyond the LP's original expectation during the initial assessment.

b. Landlord-Tenant Practice outside the Scope of LP Representation

The Committee recommends that the following types of landlord-tenant cases be outside an LP's scope of practice:

- *Affirmative plaintiff cases in circuit court.* Affirmative plaintiff cases often include matters beyond the scope of landlord-tenant practice in general and beyond the scope of what LPs are expected to master. Parties can file in small claims court for up to \$10,000, which may be an alternative forum for such cases. Excluding these types of cases would not unduly limit cases available for LP practice. These types of cases are not as frequent and urgent as most FED cases and often include counterclaims, depositions, and substantial discovery.
- *Agricultural tenancies and leasing.* These cases are outside of ORLTA and more similar to tort claims, often requiring specialized knowledge. These cases are not common and often involve significant dollar amounts. Farm worker tenancies often do not fall under ORLTA and often implicate federal laws, which would be beyond expected LP proficiency. There are other specialized resources available for advocacy in these types of cases.
- *Affirmative discrimination claims (except if asserted as a counterclaim or defense).* This is a complex area of law requiring significant specialized legal knowledge, often implicating other areas of state and federal law. While discrimination cases are important and need to be pursued, this area largely arises outside of ORLTA and requires significant specialized legal knowledge and extensive factual development and discovery. Claims may be raised in state or federal court and if raised in an FED may create preclusion issues. If a tenant wishes to counterclaim for personal injury damages, whether arising under a tort or ORLTA theory of liability, the LP would then need to refer the case to an attorney. There was some discussion that in the future a third practice area or special certification for LPs could be created for discrimination cases.
- *Commercial tenancies and leasing.* These cases fall outside of ORLTA and require extensive knowledge of complicated business law and contract law.
- *Landlord-tenant claims for personal injury.* Personal injury and other tort claims may arise during the landlord-tenant relationship and may give rise to liability under ORLTA or the rental agreement. Examples of this include premises liability injuries and mold-related illnesses. This area of law requires significant specialized legal knowledge and can be very complex, requiring extensive factual development and discovery. It may also implicate other areas of law. Such claims may be brought in the circuit court as well, and if raised previously in an FED, may create preclusion issues. These claims may also involve insurance issues. With all of these potential concerns, these personal injury claims are beyond the scope of what LPs can reasonably be expected to become proficient about and advise upon. If a tenant wishes to

counterclaim for personal injury damages, whether arising under a tort or ORLTA theory of liability, the LP must refer to an attorney.

- *Injunctive relief in affirmative cases.*
- *Housing provided in relation to employment.* This area is generally excluded from ORLTA and implicates significant state and federal law claims. Additionally, these claims can be brought in both state and federal court.
- *Affirmative subsidized housing claims.* These claims are complex and involve significant overlap with federal laws and regulations. A number of lawyers have expertise with subsidized housing claims and could assist both tenants and landlords with these issues. However, an LP who is familiar with subsidized housing–related issues should not be precluded from advising on defenses to eviction related to the subsidized status of a unit.

3. Additional Regulatory Requirements

In addition to knowing and following the substantive and procedural aspects of family law and landlord/tenant law, LPs should be required to comply with the same requirements in dealing with clients and the public as apply to attorneys. This would include, but not be limited to those aspects of the Rules of Professional Conduct that apply to transactions with clients, transactions with persons other than clients, and legal firms and associations.

Specific rules that will need to be revised for LP practice may include but would not be limited to provisions that also apply to the current practice of law by attorneys such as requiring the use of Interest on Lawyer Trust Accounts (IOLTA), IOLTA-related certification requirements, and a prohibition on sharing fees with non-attorneys or other paraprofessionals or from sharing ownership in a firm with individuals not licensed by the Oregon State Bar, as is the case with lawyers now. LPs should also be required to contribute to the Client Security Fund and to complete continuing legal education.

The Committee also recommends that LPs be required to carry malpractice insurance, preferably through the Professional Liability Fund (PLF). The PLF provides valuable assistance to attorneys in best practices, ongoing practice management, liability reduction and other crucial services and the general public would benefit substantially if the same were made available to LPs.

Existing rules related to the regulation of attorneys will need to be modified to reflect the manner in which they are intended to apply to licensed paralegals, or separate parallel rule structures will need to be created to address licensed paralegals. These may include:

- Client Security Fund Rules,
- Minimum Continuing Education Rules,

- The Oregon Rules of Professional Conduct,
- The OSB Rules of Procedure and
- The OSB Bylaws.

The Committee made no specific recommendation between these two approaches, but agreed that it was important that these rule sets were clear on how they applied to licensed paralegals.

4. Statutes, Rules, and Regulations to Review or Revise

A large number of current statutes, rules, and regulations will need to be reviewed and revised before LPs are licensed and begin practice. The Committee has discussed at least two possible scenarios to accomplish these revisions. The first is to add a simple overarching statement to each of the major statute or rule categories (e.g., an addition to the Oregon Rules of Civil Procedure (ORCPs) that “all rules in the ORCPs applicable to attorneys shall also apply to LPs”). Another option would be to change the text of specific rules in each major statute or rule category (e.g., a change to ORCP 17 A to add “licensed paraprofessional” or “licensed paralegal” to the list of who must sign a pleading, motion, or other document).

The Committee recommends changing the text of specific rules or statutes to add LPs to promote clarity with regard to which rules or statutes apply to LPs and which do not. There was some concern over what impact this method might have on statutory interpretation and precedent. There was also concern about the amount of time such detailed revisions might take, as well as what might happen if a revision was missed. Overall, however, the general sense of the Committee was that changes should be made to specific applicable statutes, rules, and regulations.

a. Revisions Applicable to LP Practice in General

The statutes, rules, and regulations identified as pertinent to LP practice in general (rather than to either family law or landlord-tenant law) that would need review or modification include but are not limited to:

- Oregon Rules of Civil Procedure (ORCPs)
- Uniform Trial Court Rules (UTCs)
- Oregon Code of Judicial Conduct
- Various Supplementary Local Rules for each circuit court
- ORS 9.005 *et seq.* (Oregon State Bar Act)
- ORS 124.060 (elder abuse reporting)
- ORS 419B.005 *et seq.* (child abuse reporting).

b. Additional Family Law–Related Revisions

Additional specific rules and statutes identified as pertinent to the domestic relations prong of LP practice that would need review or modification include but are not limited to:

- ORS 107.005 *et seq.* (dissolution, annulment, and separation)
- ORS chapter 109 (parent and child rights and relationships)
- Rules related to informal domestic relations trials (IDRTs, UTCR 8.120)
- ORS 20.075 (factors to be considered by a court in awarding attorney fees)
- ORS 40.090 *et seq.* (Oregon Evidence Code, including rules 202, 503, 503-1, 504-5, 509-2, 511, and 513)
- Supplementary Local Rules (SLRs), including specifically those reserved in chapter 8 for domestic relations proceedings.

c. Additional Landlord-Tenant–Related Revisions

Additional specific rules and statutes identified as pertinent to the landlord-tenant prong of LP practice that would need review or modification include but are not limited to:

- ORS chapter 90 (Oregon Residential Landlord and Tenant Act)
- ORS chapter 91 (tenancy)
- ORS chapter 105 (property rights)
- ORS 20.075 (factors to be considered by a court in awarding attorney fees)
- ORS 40.090 *et seq.* (Oregon Evidence Code, including rules 202, 503, 503-1, 504-5, 509-2, 511, and 513)
- Supplementary Local Rules (SLRs), including specifically those reserved in Chapter 18 for landlord-tenant proceedings.

d. Potential New Provisions Needed

New statutes, rules, and regulations will also be needed for LP practice in at least the following additional areas:

- LP admission criteria
- LP scope-of-practice definitions and limitations.

ADMISSIONS AND EDUCATION WORKGROUP RECOMMENDATIONS

The Admissions and Education Workgroup was charged with recommending specific requirements for licensure. These include experiential and education requirements, creation of multiple pathways to licensure, evaluation of applicant competency, and continuing legal education requirements.

Recommendation 1.2 of the OSB Futures Task Force provided that:

An applicant should have an associate's degree or higher and should graduate from an ABA-approved or institutionally accredited paralegal studies program, including approved coursework in the subject matter of the license. Highly experienced paralegals and applicants with a J.D. degree should be exempt from the requirement to graduate from a paralegal studies program.

The Committee agrees with this recommendation, including the exception for highly experienced paralegals, and the exception for applicants with a J.D.

The Admissions Workgroup reviewed existing paraprofessional licensing programs within the US and Canada, program proposals, and newly enacted programs from across the United States. The Workgroup has made a number of discrete recommendations that are included in this report in Appendix A. These recommendations are cited by number throughout this section.

Throughout their deliberations, the Admissions Workgroup focused on what education and training was necessary to demonstrate that an LP was competent to represent a client. The workgroup took special care that the various pathways to licensure recommended by the Committee were crafted with consideration of expanding the pool of competent LP's, and with special attention to diversity and equity, and to those working in law or law-adjacent jobs in rural communities all over Oregon.

The recommendations of the Admissions Workgroup and of the full Committee reflect these dual goals of ensuring public protection and ensuring that licensure is open to Oregonians of all backgrounds.

General Standards for Licensure

The Committee recommends that a board of volunteer lawyers, members of the public, and ultimately licensed paralegals, be charged with reviewing competency and evaluating character and fitness. (Admissions Recommendation #2) The Committee also recommends a number of general requirements for licensure that would apply to all applicants. Many of these General Standards were discussed by both the Regulatory Workgroup and Admissions and Education Workgroup and all members agree with their inclusion in this report.

An LP should have a record of conduct that demonstrates a level of judgment and diligence resulting in competent representation in the best interests of their clients and that justifies the trust of those clients, adversaries, courts, and the public concerning the professional duties and obligations owed to each group. (Recommendation #1)

The Committee recommends that LPs meet the same character and fitness requirements that currently apply to lawyers. (Recommendation #3(2))

Pathways to Licensure

The Committee's recommendations in Appendix A include Minimum Education Requirements (Recommendation #5) that recommend an associate's degree or higher in paralegal studies, from an accredited institution that provides for appropriate coursework sufficient to ensure competency as approved by the Oregon Supreme Court.

As was recommended by the Futures Task Force, the Committee recommends a minimum of 1,500 hours of "substantive paralegal experience" under the supervision of an attorney. (Recommendation #6) This would include a minimum of 500 hours in family law and 250 hours in landlord-tenant law for applicants seeking licensure in those areas. Completion of the required minimum experience must be certified by the supervising attorney. Attorney certification of the required experience is a key component of ensuring that LPs have the minimum core competencies to practice independently in the future.

With these baselines in mind, the Committee recommends the creation of multiple pathways to licensure, as laid out below. Pathway 1 is the default track, and other pathways deviate from the default requirements as provided below and in the detailed recommendations found in Appendix A. Multiple pathways will ensure that applicants with diverse backgrounds and experiences have a realistic opportunity to demonstrate competency and achieve licensure.

Pathway 1 – Standard Education Application Track

The Standard Education Application Track is expected to be the pathway that most applicants would take over the long term. The requirements are the default rules that applicants be required to have an associate's degree or higher in paralegal studies from an institutionally accredited paralegal program that allows demonstration of core competencies. Additionally, licensure would be contingent on certification of the minimum 1,500 hours of substantive experience.

There are two paralegal studies programs in Oregon today—one at Umpqua Community College and one at Portland Community College. It is anticipated that these two institutions will seek to create a new degree program that would meet the requirements for LP licensure that are ultimately set. The committee recommends that work performed through structured practicums or internship programs run through approved paralegal programs be eligible to count toward the required 1,500 hours of substantive experience.

The Committee believes this allowance is important because it will help facilitate access to licensure for individuals who might have traditionally had difficulty finding employment necessary to accumulate the required experience.

Pathway 2 – Highly Experienced Paralegal Application Track

The Futures Task Force Report recommended that “[h]ighly experienced paralegals” be exempt from the default requirement that LPs have a degree in paralegal studies.

This second track is primarily focused on existing paralegals working in Oregon, many of whom may have decades of experience but do not necessarily have a college degree. This track would provide an education waiver to individuals who meet the criteria below.

The Committee recommends that applicants seeking licensure under this track would be required to demonstrate either five years or 7,500 hours of substantive experience, with at least 1,500 hours of substantive experience in the last three years. They would still be required to have 500 hours in family law or 250 in landlord-tenant law to qualify for an endorsement in those areas.

Additionally, these applicants would be required to complete 20 hours of predetermined CLEs in advance of licensure. The creation of the CLEs is intended to be a collaborative effort between the Oregon State Bar and Oregon community colleges that are interested in offering them. This effort is ongoing. Required CLE topics would include access to justice, legal ethics, IOLTA requirements, scope of licensure and the ability to identify mandatory referral scenarios, abuse reporting, and other areas.

In addition to the above, the Committee recommends the Highly Experienced Paralegal Application Track be expanded into two additional areas not specifically addressed in the Futures Task Force Report.

The first provides for a waiver of the educational requirements for individuals who have successfully passed one of the listed national paralegal certification exams. Applicants would be required to submit evidence of passing the exam, as well as evidence that the credential remains current and in good standing with that organization on the date of application submission to be granted an education waiver.

Likewise, the committee recommends that an education waiver be granted to any active duty, retired, former, or reserve member of a component of any branch of the US Armed Forces, qualified in a military operation specialty with a minimum rank of E6 or above in a paralegal specialty rate as a Staff Sergeant (Army and Marines), Petty Officer First Class (Navy), Technical Sergeant (Air Force), or higher as a supervisory paralegal within the noted branch of service.

Individuals who receive an education waiver for either a national certification or as a military paralegal would likewise be required to complete the same 20 hours of CLEs in advance of licensure.

Pathway 3 – J.D. Waiver

The Futures Task Force also recommended that individuals with a J.D. be exempt from the default rule that LPs be required to have a degree in paralegal studies.

The Committee agrees with this recommendation and further recommends that such individuals be required to have 750 hours of substantive experience, rather than the 1,500 required of other applicants. Individuals receiving the J.D. Waiver would not be required to have the 500 hours in family law or 250 in landlord-tenant law for certification in those areas.

Individuals receiving the J.D. waiver would be required to complete the same 20 hours of CLEs required in Pathway 2.

Pathway 4 – Other Education Waiver

In addition to the exceptions proposed by the Futures Task Force, the Committee is recommending an additional education waiver for an applicant who has a bachelor's degree or higher in any course of study, or has an associate's degree in any course of study and has also obtained a paralegal certificate from an accredited institution.

As in Pathway 2, an applicant who receives this waiver would be required to complete the same 20 hours of CLEs in advance of licensure and would be required to certify the minimum 1,500 hours of substantive experience. The goal of such a waiver would be to encourage a larger and more diverse cross-section of Oregonians to seek licensure. While Pathway 2 is focused on individuals who may have no formal education but a great deal of experience, this pathway would focus on individuals who have more education but less experience.

Some members of the Committee and advisory group have expressed disagreement with this waiver, arguing that the program should not go beyond the educational waivers explicitly referenced in the Futures Task Force Report. They argue that, with the exception of the highly experienced paralegals who are able to substitute additional experience or certifications for the required education, some amount of legal education should be required of all applicants, and that a bachelor's degree in an unrelated subject should not be treated as equivalent to an associate's degree in paralegal studies.

Pathway	Education, Certification, Licensure, or Military Experience	Substantive Paralegal Experience verified through Attorney Certification. A portion of the hours may also be obtained through a supervised practicum/internship overseen by a qualifying paralegal program	Education Requirements
Document Preparer *Limited in scope, No legal advice may be provided	Associates Degree or higher in Paralegal Studies from an institutionally accredited paralegal program	1,500 hours within the last three years	Competencies assessed by a Board or Committee under the Bar
Standard Endorsement in either Family Law or Landlord/Tenant	Associates Degree or higher in Paralegal Studies from an institutionally accredited paralegal program	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	Competencies assessed by a Board or Committee under the Bar
Highly Experienced Paralegal I – Education Waiver	N/A	Five years or 7,500 hours, with a minimum of 1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Highly Experienced Paralegal II – Education Waiver	Have current paralegal credentials from a national paralegal association, including one of the following: CP, RP, CRP, or PP	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Highly Experienced Paralegal III – Education Waiver	Active duty, retired, former military, or the reserve component of any branch of the US Armed Forces, rank of E6 or above in a paralegal specialty rate or higher as a supervisory paralegal.	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar

Admission by Motion – Education Waiver	Licensed to practice in another jurisdiction	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Other Education – Education Waiver	<p>Applicants with one of the following:</p> <p>a Masters or Ph.D. in any course of study; or</p> <p>a Bachelor degree or higher in any course of study; or</p> <p>Applicants with an Associate degree or higher in any course of study + a paralegal certificate</p>	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
JD Degree – Education Waiver	Applicants with a J.D. Degree from an ABA-Approved law school	Minimum 6-months or 750 hours of substantive experience should include substantive paralegal experience, as defined above; law clerk experience; court proceeding observation (self-certification of no more than 100 hours) or work in pro bono or low bono.	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar

Evaluation of Core Competencies

The Committee spent considerable time discussing the issue of how to evaluate the competency of a potential LP. As with attorneys, identifying specific skillsets or attributes is difficult, and thus often not explicitly required as part of licensure. However, the Committee concluded it was important to set explicit expectations regarding LPs’ core competencies. This recommendation is also reflected to some degree in Futures Task Force Recommendation 1.2, which discusses approved coursework, and Futures Task Force Recommendation 1.3 relating to minimum education requirements.

An example of a list of core competencies, as applied to attorneys, was set out in the Institute for the Advancement of the American Legal System report

Building a Better Bar⁸. In the report, the author lays out the following twelve core competencies:

The ability to act professionally and in accordance with the rules of professional conduct;

- An understanding of legal processes and sources of law;
- An understanding of threshold concepts in many subjects;
- The ability to interpret legal materials;
- The ability to interact effectively with clients;
- The ability to identify legal issues;
- The ability to conduct research;
- The ability to communicate as a lawyer;
- The ability to see the “big picture” of client matters;
- The ability to manage a law-related workload responsibly;
- The ability to cope with the stresses of legal practice; and
- The ability to pursue self-directed learning.

While these are intended for lawyers, the Committee recommends a similar list of competencies be established with respect to LPs.

The recommendation of the Committee is that a board of volunteer lawyers, members of the public, and eventually LPs be authorized to assess whether applicants meet core competencies and make admissions decisions accordingly. While some applicants will have gone through an Oregon-based paralegal studies program that may have considered these core competencies, many will have taken other pathways. The Committee makes no recommendation regarding curricula of educational institutions and does not recommend that the bar approve individual paralegal programs. To do so could result in disparate treatment of institutions from inside and outside Oregon, and could have the unintended consequence of discouraging students from taking the first pathway toward licensure.

The Committee recommends that as part of the application process, all applicants submit a portfolio containing a body of work for assessment of the competency of each candidate. Competencies the portfolio might address could include: (Recommendation #3)

1. Understanding of legal ethics;
2. Understanding of the scope in the specific practice area in which the candidate seeks endorsement;

8 See Deborah Jones Merritt & Logan Cornett, Building a Better Bar: The Twelve Building Blocks of Minimum Competence, at 31 (Dec. 2020), https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf.

3. Understanding of requirements to refer clients outside of that scope;
4. Ability to competently apply the fundamental principles of law;
5. Ability to competently undertake fundamental legal skills commensurate with being a licensed paralegal, such as legal reasoning and analysis, recollection of complex factual information and integration of such information with complex legal theories, problem-solving, and recognition and resolution of ethical dilemmas;
6. Ability to:
 - a. Communicate honestly, candidly, and civilly with clients, licensed paraprofessionals, attorneys, courts, and others;
 - b. Conduct financial dealings in a reasonable, honest, and trustworthy manner;
 - c. Conduct oneself with respect for and in accordance with the law;
 - d. Demonstrate regard for the rights, safety, and welfare of others;
 - e. Demonstrate good judgment on behalf of clients and in conducting one's professional business;
 - f. Act ethically, diligently, reliably, and punctually in fulfilling obligations to clients, adversaries, courts, and others;
 - g. Comply with deadlines and time constraints;
 - h. Maintain confidentiality of client information and client data.

As an additional aid to the Bar, attorneys employing paralegals, and other parties, Attachment D at the end of Appendix A of this report includes examples of specific tasks that the Committee believes are reasonable to assume that most LPs will be trained and competent in. While it is not expected that every LP will have experience with every item on the list, it may be a useful aid in understanding the types of experiences and competencies that the bar would expect applicants to be able to demonstrate prior to licensure.

STAKEHOLDERS WORKGROUP REPORT

The Stakeholders Workgroup has worked throughout the past year both to inform the legal community and Oregonians of the paralegal licensure proposal, and to solicit input on the proposal that will ultimately inform the Oregon Supreme Court's decision.

While some of this input has already been received and is included for the BOG's consideration, the work of the Stakeholders Workgroup is ongoing and will continue until the Supreme Court makes a final decision on the proposal. If the proposal is approved, outreach may continue beyond that point to inform decisions on the administration of the program. In the Committee's July 2021 Progress Report, the workgroup identified three broad categories of individuals from whom it was important to solicit input:

- OSB and OJD groups
- External legal advocacy groups
- Public and community advocacy groups

The workgroup continues to believe that soliciting input from all of these groups is critical. To that end, the bar has continued the outreach strategy developed over the summer. Input has been received by the bar in several ways, and will be expanded throughout the fall.

Opportunities for Input

The OSB is welcoming public comments on the proposal at both the November 2021 and February 2022 BOG meetings. Additionally, the OSB has been receiving input on the proposal at the paraprofessionalcommittee@osbar.org email address for several months. These comments have been compiled by OSB staff and are available for review.

Surveys

The OSB has already sent out targeted surveys to two specific groups. The first is students and alumni of the two community college paralegal programs in Oregon. The second is judges and court staff. While both of these surveys invite broad input, the purpose of the student survey is to gauge interest in becoming an LP. The purpose of judicial survey is to gauge the level of difficulty courts currently have with unrepresented parties and to what extent those parties would benefit from consulting with LPs prior to appearance. In addition, the OSB will be completing a statewide survey and conducting targeted focus groups before the end of the year.

Direct Outreach

Over the past several months, Senior Judge Dan Harris has presented to the Oregon Judicial Conference, the State Family Law Advisory Committee, several OSB sections, and numerous other groups. The purpose of this outreach has been to inform these major stakeholder groups of the proposal and directly solicit suggestions and input. The comments he has received have been reported back to the Committee and incorporated into the draft proposal. This outreach will continue until the Supreme Court makes its final decision.

EVALUATING THE PROGRAM

The Committee had several discussions on how the OSB or the courts would evaluate the efficacy of an LP program after it is implemented. As has been discussed, there exists a well-documented access to justice gap, in particular in family law and landlord/tenant cases. While representation rates in these cases are low across the board, rates of representation are even lower for persons of color, rural residents, and low-income residents generally. The explicit goal of an LP program is to allow new opportunities to provide legal services to

Oregonians who are currently unserved by attorneys. Documenting whether or not this occurs is a critical metric in evaluating the program.

One framework for how this might be accomplished is contained in the report *Assessing Improvements in Access to Justice*⁹ recently published by the National Center for State Courts.

To paraphrase the report, one important prerequisite to this evaluation is ensuring that Oregon courts are able to collect information in the case management system that will distinguish between attorney-represented, LP-represented, and self-represented parties. Based on initial conversations with the OJD, it appears that the current case management system would be able to accomplish this task. The OJD also has baseline statistics on the number of parties who are appearing in court without an attorney today. With this information in hand, it should be possible in the future to measure how many parties are using LPs and how many are remaining self-represented, and potentially evaluate different case outcomes for these different groups.

Additionally, the report recommends the development of user satisfaction surveys that could be distributed to court users who had retained the services of LPs at some point in the process. This could involve working directly with LPs to solicit feedback, or it could be a process by which a random sample of all court users are surveyed, to help determine the overall percentage who worked with an LP.

While specific recommendations regarding evaluating the program are beyond the scope of this Committee, members generally supported having a formal method of evaluating the success of the program.

ORGANIZATIONAL STRUCTURE

When the Futures Task Force recommended that the OSB develop a license for paralegals, the task force sought to balance three interests: protecting consumers, increasing access to justice, and cost-efficiency. With respect to cost-efficiency, the Task Force sought to take advantage of existing system-wide efficiencies within the OSB for the administration of a new license.

The Committee agrees that cost efficiency should be considered in development and administration of the LP program. To that end, the Committee envisions the following organizational structure for paraprofessional licensing.

SB 768, which passed into law earlier this year, expands the OSB's governing statute to allow for associate membership in the bar under ORS 9.241. It provides in pertinent part:

9 An Evaluation Framework for Allied Legal Professional Programs: Assessing Improvements in Access to Justice; State Justice Institute and National Center for State Courts; Andrea L Miller Ph.D., J.D., Paula Hannaford-Agor, J.D., Kathryn Genthon, M.S.; May 2021.

(3) Notwithstanding ORS 9.160, the Supreme Court may adopt rules pursuant to ORS 9.210 to admit individuals with substantial legal education as associate members of the Oregon State Bar without taking the examination required by ORS 9.210. An individual admitted as an associate member under this subsection must meet all character and fitness requirements under ORS 9.220.

This change allows another class of membership administered and regulated by the OSB, pursuant to Supreme Court rules, rather than creating a separate, duplicative, licensing entity.

The proposed paralegal admission requirements include an educational component, experiential practice, and the character and fitness examination. Existing procedures for evaluating character and fitness of applicants for a lawyer license would be used to evaluate the character and fitness of applicants for the paraprofessional license. Character and fitness evaluations could be performed by OSB Admissions staff, and the BBX could oversee the character and fitness examination process, at least at the outset of program implementation. A new board may be created to provide oversight, when demand for the license exceeds the capacity of the BBX, and application fees can fund additional administrative costs.

With respect to the educational and experiential practice requirements, the Committee anticipates (at minimum) the development of a certification form to be used by the schools and lawyer supervisors. Whether additional oversight by a volunteer board would be necessary has yet to be determined. Creation of a volunteer board would result in increased administrative costs to support the work of the board. As noted above, however, depending on demand for the license, application fees could potentially fund these increased costs at some point in the future, as long as existing OSB Admissions staff and OSB operations could be leveraged to reduce overhead. These issues are still under consideration.

The paraprofessional regulatory framework includes compliance with mandatory CLE requirements and applicable rules of professional conduct, IOLTA certification, and malpractice liability insurance coverage. OSB staff are already responsible for administration of these requirements for lawyers, and the OSB has an existing procedural framework in place to do so. The Committee recommends adding the paraprofessional regulatory work to the existing disciplinary proceeding framework and other regulatory frameworks that currently exist for lawyers. By doing so, the unnecessary cost of duplicating an existing administrative framework is avoided. While OSB staff anticipate incurring additional costs for initial implementation (e.g., to reconfigure existing software and draft new rules), they do not anticipate a need for additional staffing once implemented. This organization framework would also allow for more consistent application of standards to similar situations faced by both groups of licensees.

The admission and regulation of licensed paraprofessionals within the existing OSB and Supreme Court regulatory frameworks would allow for comprehensive planning with respect to the provision of legal services to the public. A separate licensing entity, on the other hand, could inevitably result in conflict, on any number of issues of public policy and concern.

APPENDICES

Appendix A

Paraprofessional Licensing Implementation Committee (PLIC)
Admissions and Education Workgroup (“the Workgroup”)
Framework and Recommendations for Licensed Paraprofessionals (LPs)
(November 2021)

Recommendations

1. [Standards of a Licensed Paraprofessional \(LP\)](#)
2. [Duties of the BBX](#)
3. [Minimum Eligibility Qualifications for LP Applicants](#)
4. [Partnership with the Community Colleges and the Oregon State Bar](#)
 - a. [Standard Education Track](#)
 - b. [Education Waiver Application Track](#)
 - c. [Continuing Legal Education](#)
5. [Standard Eligibility Pathway; Minimum Education Requirement](#)
6. [Minimum Paralegal Experience](#)
7. [Attorney Verification of Paralegal’s Substantive Experience](#)
8. [Potentially Ineligible Individuals or Conduct](#)
9. [Factors Considered for Present Character](#)
10. [Rehabilitation/Character Reformation](#)
11. [Non-discrimination Policy](#)
12. [Applicants Seeking Waiver of the Minimum Education Requirements](#)
 - a. [Highly Experienced Paralegal](#)
 - i. [Highly Experienced Paralegal I](#)
 - ii. [Highly Experienced Paralegal II](#)
 - iii. [Highly Experienced Paralegal III](#)
 - b. [Admission by Motion](#)
 - c. [Other Education](#)
 - d. [JD Degree](#)
13. [Fee Waivers and Needs-Based Scholarships](#)
14. [Mandatory Course Requirements for Applicants Seeking Waiver of Minimum Education Requirements](#)
15. [Renewal of License](#)
16. [Mandatory CLE Requirements for Renewal of LP Endorsements](#)
17. [Metrics for Measuring Success of Program](#)

[Table 1 – Eligibility Pathways Summary](#)

Recommendation #1 - Standards of a Licensed Paraprofessional (LP)

A licensed paraprofessional should have a record of conduct that demonstrates a level of judgment and diligence resulting in competent representation in the best interests of their clients and that justifies the trust of those clients, adversaries, courts, and the public concerning the professional duties and obligations owed to each group.

Recommendation #2 - Oversight Through Volunteer Board

The Committee recommends that a board of volunteer lawyers, members of the public, and ultimately licensed paralegals should be created and charged with the duty and vested with the power and authority to:

1. Determine the eligibility of applicants for an LP;
2. Determine reciprocal jurisdictions for purposes of admission by motion under this LP program;
3. Establish a fee schedule for applicants for Licensed Paraprofessionals and other services;
4. Establish subcommittees, as appropriate, to perform its duties;
5. Delegate to any of its members, subcommittees, or administrator, all or any part of its duties and responsibilities under the LP program;
 - a. The board may create an as needed advisory board, initially including some members of the PLIC, to oversee hearings of LPs; assess competencies of applicants, denials of LP applications and appeals of denials of applications of LPs; and research and provide recommendations for future changes to the LP program.
 - b. Upon approval of the proposed LP Program, the board should add a paralegal or LP to provide perspective and comments on issues affecting the LP program that are germane to character and fitness reviews.
 - c. The board should add a paralegal or LP to the MCLE Review Board to assist with paralegal CLE review and approvals germane to LP practice.
6. Establish a budget, expend funds, enter into contracts and retain the assistance of experts and other personnel when deemed necessary for the efficient discharge of its duties;
7. Oversee and administer LP Admissions; and
8. Promulgate, amend and revise regulations relevant to the above duties to administer the LP program. The policies and procedures of the board should be consistent with these Recommendations.

Recommendation #3 - Minimum Eligibility Qualifications for LP Applicants

1. 18 years of age or older;
2. Meet the moral character and fitness standards to practice law under the LP program;
3. Submit a Paraprofessional License application and pay the appropriate fee, as set forth by the OSB Board of Governors, including a portfolio containing a body of work for assessment of the competency of each candidate in ethics, scope in the specific practice area seeking endorsement, and requirements to refer client outside of that scope¹. The portfolio could be used by the admissions board to evaluate the applicant's:
 - a. Ability to competently apply the fundamental principles of law and application;

¹ A summary of Portland Community College's Paralegal Portfolio Program is included as Attachment B and is the recommended method for assessing the LP candidates' competencies. This recommendation is similar to the recommendations currently being proposed for Oregon State Bar Attorney applicants, instead of a Bar Exam. The Admissions & Education Workgroup also considered a Bar-type exam and recommends against the creation or use of an examination for the reasons outlined previously.

- b. Ability to competently undertake fundamental legal skills commensurate with being a licensed paraprofessional, such as legal reasoning and analysis, recollection of complex factual information and integration of such information with complex legal theories, problem-solving, and recognition and resolution of ethical dilemmas;
- c. Ability to:
 - i) Communicate honestly, candidly, and civilly with clients, licensed paraprofessionals, attorneys, courts, and others;
 - ii) Conduct financial dealings in a reasonable, honest, and trustworthy manner;
 - iii) Conduct oneself with respect for and in accordance with the law;
 - iv) Demonstrate regard for the rights, safety, and welfare of others;
 - v) Demonstrate good judgment on behalf of clients and in conducting one's professional business;
 - vi) Act ethically, diligently, reliably, and punctually in fulfilling obligations to clients, adversaries, courts, and others;
 - vii) Comply with deadlines and time constraints;
 - viii) Maintain confidentiality of client data.
- d. Understand and Agree to:
 - i) Comply with the requirements of applicable state, local and federal laws, rules, and regulations; any applicable order of a court or tribunal; and the Rules of Professional Conduct.
 - ii) Comply with the MCLE requirements, including Ethics, Access to Justice, and Abuse Reporting;
 - iii) Comply with the requirements to maintain IOLTA accounts, as appropriate;
 - iv) Comply with the requirements to carry malpractice liability insurance;
 - v) Comply with the requirement to pay into the Client Security Fund;
 - vi) Comply with prohibitions regarding fee sharing;
 - vii) Comply with the requirements to use written agreements, mandatory disclosures, and referrals to licensed attorneys for services exceeding the scope of licensing authority;
 - viii) Comply with the requirements that a person shall not represent they are a licensed paraprofessional or are authorized to provide legal services without holding a valid license according to the LP program.

Recommendation #4 – Partnership with the Community Colleges and the Oregon State Bar

The Admissions & Education Workgroup has had multiple conversations with community colleges within the state to determine if they would:

1. Be interested in collaborating with the Oregon State Bar to develop a statewide education program to that would be available to a broader audience across the state, offering three different education tracks to the various applicant types.
2. The Admissions & Education Workgroup, with input provided by the community colleges, recommends three education tracks be considered as part of the partnership with the Oregon State Bar:

a. The **Standard Application Education Track** (or also referred to as a CTE program) outlined in Recommendation #4A below would be tailored around Recommendation #5 below through a degree or certificate program;

b. The **Education Waiver Application Track** (or Workforce Development of Incumbent Workers) outlined in Recommendation #4B below, providing non-credit courses in the twenty identified topics for the **Education Waiver Applicants** (for highly experienced paralegals and JD applicants), detailed in Recommendation #12 below.

In conversations with the Community Colleges Partners, this could be offered as a bundle of 20-hour or two 10-hour track of non-credit courses but the details of such a proposal are yet to be determined and subject to approval of these recommendations.

c. The **Mandatory CLE Requirements for Renewal of License of LP** Track (through Workforce Development) outlined in Recommendation #4C below, providing non-credit continuing legal education courses for LPs to renew their licenses.

Recommendation #4A – Standard Application Education Track (or also referred to as a CTE program)] as a first education track.

1. The paralegal programs offering the additional Standard Education Application Track must be institutionally accredited by a regional educational institution, such as the Northwest Commission on Colleges and Universities, which oversees accreditation for colleges and universities in Oregon and Washington.
2. If the Applicant obtained their degree from a school in a foreign jurisdiction, as defined by ORS 9.242(2), the board overseeing admissions shall evaluate whether the Applicant's education program meets this requirement. To assist in this determination, the board may require that the Applicant's educational program be assessed by a commercial evaluator of the board's choosing and at the Applicant's expense.
3. Standard Application Education Track Programs offered out-of-state, such as in Washington, California, or Idaho, may not offer the Oregon-specific content (such as IOLTA account administration or mandatory elder abuse reporting), and those applicants may need to complete the 20 CLEs required for Education Waiver applicants but defer to the OSB to determine those guidelines.

Recommendation #4B – Education Waiver Application Track through a Partnership with Oregon Community Colleges (Workforce Development of Incumbent Workers)

Education Waiver Application Track offered through a Partnership with Oregon Community Colleges (Workforce Development of Incumbent Workers) and the Oregon State Bar to provide the recommended 20 courses for those applicants who do not meet the Standard Application education requirements.

The Futures Task Force recommended an exemption for JD applicants and those highly experienced paralegals who are extremely competent and skilled because many paralegals did not follow the standard path to become a paralegal offered by an associate degree in paralegal studies. The exemption outlined by the Futures Task Force took this into account.

The Education Waiver Pathways exempts those specific applicants from the degree requirements in Recommendation #5. However, after careful consideration the Admissions & Education Workgroup identified 20 course topics with which these applicants should be competent. Because these applicants may not have received training on these topics through formal education, and may not have been exposed to these issues in their supervised training, the Admissions & Education Workgroup felt exposure to these topics was vital enough to be required of all applicants.

Recommendation #4C – Continuing Legal Education

In addition to the usual and customary MCLE programs offered to attorney-members of the Bar, the Admissions & Education Workgroup also recommends a partnership between Oregon community colleges and the Oregon State Bar to offer the CLEs necessary for LPs to renew their licenses every three years. One option for offering CLEs to LPs could be modeled after the Florida Bar's Florida Registered Paralegal (FRP) program as either part of the membership benefits of licensure or as part of a stand-alone CLE program.

A summary of the Florida Bar's FRP CLE Program provided by Florida Bar, Programs Division Assistance Director, Francisco-Javier P. Digon-Greer, Esq is included in Attachment C, at the end of this Appendix.

Recommendation #5 – Standard Eligibility Pathway; Minimum Education Requirements

The Standard Eligibility Pathway requires an education sufficient to ensure legal education training in the subject matter necessary to provide adequate legal services as outlined in the Futures Task Force Recommendation No. 1.2². To meet this standard, the applicant must have an Associate Degree or higher in paralegal studies from an U.S. institutionally accredited paralegal program.

Applicants seeking licensure though the Standard Pathway are still required to obtain the Minimum Experience Requirement of 1,500 hours, with 500 hours in Family Law and 250 in Landlord/Tenant law. The Committee recommends that 750 hours of this requirement could be completed as part of the Standard Education Application through a structured practicum or internship program offered by a paralegal program, provided the students are

² *"An applicant should have an associate's degree or better and should graduate from an ABA-approved or institutionally accredited paralegal studies program, including approved coursework in the subject matter of the license. Highly experienced paralegals and applicants with a J.D. degree should be exempt from the requirement to graduate from a paralegal studies program."*

supervised by the program faculty with routine feedback and assessment. Verification of the student's competency and experience is verified in much the same manner as the Attorney verification, using the Attorney Certification Template as a basis for such an assessment.

Recommendation #6 - Minimum Paralegal Experience

The purpose of the paralegal experience is to ensure the competency of the Licensed Paraprofessional applicant.

1. "Minimum paralegal experience" or "minimum work experience" is full-time employment of at least one year, or a minimum of 1,500 hours of "substantive paralegal experience" of which a majority of the time is under the direct supervision of an attorney licensed to practice in Oregon or as part of a paralegal program practicum or internship as outlined in Recommendation 5 above. Part-time employment is calculated on a pro-rata basis.
2. "Substantive Paralegal Experience" is the performance of substantive work performed a majority of the time that requires knowledge of legal concepts and processes that are customarily, but not exclusively, performed by a lawyer, is not administrative and is supported by a lawyer education, certification or training in the legal profession.
3. The paralegal may be contracted with or employed by a lawyer, law office, governmental agency, or other entity; or may be authorized by administrative, statutory, or court authority to perform substantive work, such as that of a court facilitator outlined by ORS 3.428. For use in meeting the experience requirement, the 1,500 hours of substantive paralegal experience must be obtained within three years preceding the license application date
4. The substantive paralegal experience shall be verified through certification by the supervising attorney(s). Each attorney certification must include a declaration verifying:
 - a. The specific dates of employment;
 - b. The work performed is not administrative;
 - c. The work performed would otherwise be performed by an attorney;
 - d. A list of the paralegal's substantive duties;
 - e. Whether the position was full time or part-time;
 - f. The average number of hours worked per week;
 - g) The duration of employment;
 - h) The majority of the time was spent performing substantive paralegal duties; and
 - i) The attorney is in support of the individual's application and verifies the Applicant's competency in the practice area seeking Endorsement. See Attachment A –Attorney Certification of Substantive Paralegal Experience [Template].
 - j) Tiered Endorsements
 - i. For applicants seeking Endorsement as a Document Preparer (with no carve-out for providing legal advice), the 1,500 hours of substantive paralegal experience described previously is adequate, with Attorney Certification.

- ii. For applicants seeking Endorsement in Family Law, 1/3 of the required 1,500 hours, or 500 hours, must be obtained within the subject matter seeking Endorsement.
- iii. For applicants seeking Endorsement in landlord/tenant and evictions, 1/6 of the required 1,500 hours, or 250 hours, must be obtained within the subject matter seeking Endorsement.
- iv. Experience within the subject- matter seeking Endorsement may be verified through certification by the supervising attorney as outlined above or as follows:
 - 1. Observation of court proceedings in the subject matter seeking Endorsement such as first appearances, *ex parte* proceedings, etc., may account for no more than 100 hours of the required experience hours.
 - i. The Applicant must locate a willing and respected member within the legal community to debrief about what they observe within any court proceedings or process. The legal professional may be a judge, attorney, paralegal, court facilitator, law clerk, or similar. The legal professional must be willing and able to document their discussions with the Applicant about the court observations and confirm the substance is pertinent to the subject matter endorsement.
 - a. Both the Summary by the Applicant and verification by the legal professional must accompany the court observation form.
 - ii. Observation experience must include a prescribed form verified by
 - a. Self-certification by declaration of the Applicant evidencing the dates and duration of the proceedings observed, the parties to the proceeding, the judge overseeing the proceeding, and the type of proceeding being observed for verification purposes.
 - b. Be signed by a court official authorized to verify the attendance, such as the Judicial Court Clerk, Trial Court Administrator, Court Facilitator, or other authorized court staff confirming the date, time, and court proceeding in attendance.³
 - 2. Work with a pro bono or low bono experience verified by the supervising attorney or agency or any other paid or unpaid positions with the same experience requirements.
 - 3. "Substantive Educator/Trainer Experience" is the research and publication of authoritative articles, manuals or related educational/instructional material, online or in-person instruction

³ The Admissions & Education Workgroup requested outreach to the Court Facilitators and Trial Court Administrators to elicit feedback and interest in drafting language and possible enlistment of Court Facilitators to train and educate LPs on court forms for Family Law matters. Initial responses from this group in support of this proposal.

and/or the performance of substantive work performed a majority of the time that requires knowledge of legal concepts and processes that are customarily in the area seeking endorsement, but not exclusively, performed by a lawyer, is not administrative and is supported by a lawyer education, certification or training in the legal profession and certified by an attorney using the Attorney Certification of Substantive Paralegal Experience Form as a verification of same [Template].

Recommendation #7 – Attorney Verification of Paralegal’s Substantive Experience

The Workgroup recommends the Bar research and draft ethical requirements and guidelines to ensure attorneys are ethically bound to respond to a request to verify a paralegal’s experience, just as they respond to a client’s request for their file when they terminate the attorney-client relationship. An exception can and should be carved out for a claim of incompetence. Still, the goal would be to ensure attorneys cannot withhold their verification without cause, for instance, if they were angry that the paralegal applied for the license. For that reason, the Committee also recommends an ethics analysis or opinion outlining an attorney’s obligations to respond to a request for verification of substantive paralegal experience.

Recommendation #8 - Potentially Ineligible Individuals or Conduct

The revelation or discovery of any of the following may be treated as cause for further inquiry before the Board determines whether the Applicant possesses the character and fitness to practice law under the LP program:

1. Attorneys who have been disbarred, suspended for disciplinary reasons, or who resign Form B;
2. An individual disciplined for practicing UPL in any jurisdiction;
3. An individual convicted of a crime, the commission of which would have led to disbarment in all the circumstances present, had the person been licensed to practice law in Oregon at the time of conviction.
4. Unlawful conduct that reflects adversely on the Applicant’s character and fitness;
5. Academic misconduct;
6. Making or procuring any false or misleading statement or omission of relevant information in connection any bar application or any testimony or sworn statement submitted to any licensing or certification board;
7. Misconduct in employment;
8. Acts involving dishonesty, fraud, deceit, or misrepresentation;
9. Actions that demonstrate a disregard for the rights or welfare of others;
10. Abuse of legal process, including the filing of vexatious or frivolous lawsuits or the raising of vexatious or frivolous defenses;
11. Neglect of financial responsibility;
12. Neglect of professional obligations;
13. Violation of an order of a court;

14. Conduct that evidences current drug or alcohol use to such an extent that it could impair the ability to practice law under the LP program;
15. Denial or delays of admission to the bar in another jurisdiction on character and fitness grounds; or
16. Adjudicated disciplinary action by a lawyer disciplinary agency or other professional disciplinary agency of any jurisdiction with a final decision resulting in an action or finding against the legal professional.
17. Other conduct that evidences an inability to practice law under the LP program.

Recommendation #9 - Factors Considered for Present Character

In reviewing any prior conduct, if the conduct is identified necessitating additional inquiry by the Board as outlined in the previous section, then the following factors shall be considered potentially mitigating or aggravating regarding an applicant's present good moral character or fitness to practice law under the LP program:

1. Applicant's age at the time of the conduct;
2. Length of time since the conduct occurred;
3. Rehabilitation/character reformation:
4. Seriousness of the conduct;
5. Factors or circumstances underlying the conduct;
6. Cumulative nature of the conduct;
7. Candor in the admissions process; and
8. Materiality of any omissions or misrepresentations during the admissions process.

Recommendation #10 - Rehabilitation/Character Reformation

An applicant may assert rehabilitation by submitting evidence of one or more of the following:

1. Acknowledgment the conduct was wrong and has accepted responsibility for the conduct;
2. Strict compliance with the conditions of any disciplinary, judicial, administrative, or other order, where applicable;
3. Lack of malice toward those whose duty compelled bringing disciplinary judicial administrative or other proceedings against Applicant.
4. Full cooperation and candor in the admission process;
5. A commitment to conform with the standards of good character and fitness for the practice of law under the LP program;
6. Restitution of funds or property, where applicable;
7. Positive social contributions through employment, community service, or civic service;
8. Engagement with a qualified treatment provider or participation in a generally recognized treatment program that addresses the behavior or conduct that is

- potentially disqualifying, and compliance with the recommendations of the qualified provider or recognized treatment program;
9. Recent conduct that demonstrates that the Applicant meets the essential eligibility requirements for the practice of law under the LP program and justifies the trust of clients, adversaries, courts, and the public;
 10. Character evidence from people who know and have had the opportunity to observe the Applicant;
 11. Other factors that support an assertion of rehabilitation.

Recommendation #11 - Nondiscrimination Policy

In determining good moral character and fitness to practice law under the LP program, the Board shall not discriminate against any applicant based on:

1. Race, color, or ethnic identity;
2. Gender or gender identity;
3. Sexual orientation;
4. Marital status;
5. Creed or religion;
6. Political beliefs or affiliation;
7. Sensory, mental, or physical disability;
8. National origin;
9. Age;
10. Honorably discharged veteran or military status;
11. Use of a trained service animal by a person with a disability; or
12. Any other class protected under state or federal law.

Recommendation #12 - Applicants Seeking Waiver of the Minimum Education Requirements

The Admissions and Education Workgroup worked diligently to identify a number of different Waiver Pathways that would meet the exception requirement of the Futures Task Force, taking into account the many different pathways an individual may have traveled to become a paralegal, such as military service, education in another discipline, working their way up in a law firm, etc. The Admissions and Education Workgroup felt strongly the education waiver pathways outlined below address the exemption that the Futures Task Force identified, as well as considering access and equity issues of the LP applicants.

The LP applicants must:

1. Pay an administrative fee approved by the Board, unless a fee waiver is approved pursuant to the LP program guidelines ultimately approved;
2. Complete the 20-Hour Mandatory Courses Requirement for Applicants Seeking a Waiver of the Minimum Education Requirements;
3. Meet the Minimum Experience Requirements, except as amended for the Highly Experienced Paralegal I – Education Waiver and the JD Degree – Education Waiver; and
4. Meet one of the following eligibility criteria:

- a. **Highly Experienced Paralegal:** Applicant must meet one of the following criteria to qualify under this eligibility:
- i. **Highly Experienced Paralegal I – Education Waiver.** A paralegal with a minimum of 5 years or 7,500 hours of substantive paralegal experience,” with a minimum of 1,500 hours having been obtained within the last three years under the direct supervision of an attorney licensed to practice in Oregon. For use in waiving the Minimum Education Component, the Substantive Paralegal Experience will be verified through the Certification of Substantive Paralegal Experience of Applicant Letter [Sample]requirements – see Attachment A at the end of this Appendix]. 750 of the required 1,500 hours may be obtained through a practicum or structured internship offered by a qualifying paralegal program as noted previously.
 - ii. **Highly Experienced Paralegal II – Education Waiver.** A paralegal who has successfully passed one of the listed national paralegal certification exams, evidenced by submission of evidence of passing the exam, as well as evidence that the credential remains current and in good standing with the issuing organization on the date of application submission:
 1. The National Association of Legal Assistants (NALA) Certified Paralegal Exam® (CP) with current CP® Credentials
 2. The National Federation of Paralegal Associations’ (NFPA)
 - (a) Paralegal Advanced Competency Exam® (PACE) with current RP® Credentials; or
 - (b) Paralegal Core Competency Exam® (PCCE) with current CRP™ credentials;
 3. The NALS Professional Paralegal (PP) Exam with current PP™ Credentials.
 - iii. **Highly Experienced Paralegal III – Education Waiver.** A member of the active duty, retired, former military, or the reserve component of any branch of the US Armed Forces, qualified in a military operation specialty with a minimum rank of E6 or above in a paralegal specialty rate as a Staff Sergeant (Army and Marines), Petty Officer First Class (Navy), Technical Sergeant (Air Force), or higher as a supervisory paralegal within the noted branch of service as evidenced by the submission of one of the following:
 1. Enlisted Record Brief (“ERB”);
 2. Affidavit from the military paralegal’s commanding officer confirming the rank and title of the military paralegal;
 3. For retirees or veterans, submission of the Certificate of Release or Discharge from Active Duty form, also known as the DD214, setting forth the last rank held and all MOS (jobs), duration, etc.
- b. **Admission by Motion – Education Waiver.** Applicants seeking Admission by Motion from other qualifying jurisdictions.
1. For purposes of this rule, a “qualifying jurisdiction” means any other United States jurisdiction with mirror reciprocity for licensing paraprofessionals to practice law in the practice area of license offered through the LP program.

- c. **Other Education – Education Waiver**⁴. Applicants who have obtained one of the following degrees from a U.S. institutionally accredited school:
- i. Applicants with a master’s or Ph.D. in any course of study; or
 - ii. Applicants with a bachelor’s degree or higher in any course of study; or
 - iii. Applicants with an Associate degree or higher in any course of study have obtained a paralegal certificate for an accredited institution.
 - iv. If the applicant obtained their degree from a school in a foreign jurisdiction, as defined by ORS 9.242(2), the Board shall evaluate whether the applicant’s education program meets this requirement. To assist in this determination, the Board may require that the applicant’s educational program be evaluated by a commercial evaluator of the Board’s choosing and at the applicant’s expense. The Board will review the resulting analysis to assist in determining compliance with the LP program⁵.
- d. **J.D. Degree – Education Waiver**. Applicants who have obtained a J.D. Degree from an ABA-Approved law school and have a minimum of 6-months, or 750 hours, of Substantive Experience obtained in the last three years, the JD Applicant would not be required to have the 500 hours in Family Law or 250 in Landlord/Tenant for certification in those areas, the experience shall include one of or a combination of the following:
- i. Substantive paralegal experience as defined previously; or
 - ii. Legal practice experience, including any activity related to the substantive legal work performed (whether paid, unpaid, pro bono, or low bono) and must be verified by a supervising attorney licensed to practice in Oregon, a Judge or agency overseeing the work, as demonstrated using the Certification of Substantive Paralegal Experience of Applicant Letter [Sample], Attachment A, as a template, modifying for the specific experience to be verified; or
 - iii. Observation of court proceedings in the subject matter seeking Endorsement such as first appearances, *ex parte* proceedings, etc., may account for no more than 100 hours of the required experience hours.
 - iv. The Applicant must locate a willing and respected member within the legal community to debrief about what they observe within any court proceedings or process. The legal professional may be a judge, attorney, paralegal, court facilitator, law clerk, or similar. The legal professional must be willing and able to document their discussions with the Applicant about the court observations and confirm the substance is pertinent to the subject matter endorsement.

⁴ Note, Portland Community College and Umpqua Community College’s paralegal programs agree with the Futures Task Force Recommendation 1.2 requiring an exemption for the highly experienced paralegals and JD applicants, but disagree that other education consisting of a bachelor's degree, master's degree, and PhD in any subject should qualify an applicant for an education waiver. Portland Community College and Umpqua Community College agree that highly experienced paralegals (7,500 hours of experience or more) and those with J.D.'s should not have to complete the requisite education.

⁵ This language is similar to that outlined for the assessment of foreign degrees for an attorney applicant.

1. Both the Summary by the Applicant and verification by the legal professional must accompany the court observation form.
- v. Observation experience must include a prescribed form verified by
 1. Self-certification by declaration of the Applicant evidencing the dates and duration of the proceedings observed, the parties to the proceeding, the judge overseeing the proceeding, and the type of proceeding being observed for verification purposes.
 2. Be signed by a court official authorized to verify the attendance, such as the Judicial Court Clerk, Trial Court Administrator, or other authorized court staff confirming the date, time, and court proceeding in attendance⁶; or
- e. Law clerk position as substantiated by the court; or
- f. Work with a pro bono or low bono experience verified by the supervising attorney or agency or any other paid or unpaid positions with the same experience requirements.

Recommendation #13 - Fee Waivers and Needs-Based Scholarships

1. Fee Waivers for Qualified Veterans

To be eligible for a fee waiver, an applicant shall be applying for the LP program under the **Highly Experienced Paralegal III – Education Waiver** and shall be all the following:

- a. An individual.
- b. A resident of Oregon.
- c. A veteran, as defined by the Highly Experienced Paralegal III – Education Waiver, or one of the following:
 - i. A member of a reserve component of the U.S. armed forces or the national guard, as defined in 32 U.S.C § 101(3), who has served under honorable conditions for at least one year beginning on the member’s date of enlistment in a reserve component of the U.S. armed forces or the national guard.
 - ii. A person who was discharged from a reserve component of the U.S. armed forces or the national guard, as defined in 32 U.S.C. § 101 (3), if that discharge was an honorable discharge or a general discharge under honorable conditions.

2. Need-Based Scholarships

Applicants may qualify for need-based scholarship funds if they come from low-income backgrounds. Qualification is determined based on family income, and Applicant must be eligible under one of the eligibility pathways to receive any funds.

⁶ Id.

3. Individuals who meet the criteria for the fee waiver or Needs-Based Scholarship under these provisions and request a waiver of their fees under the LP program shall be granted a waiver of those fees.

Recommendation #14 - Mandatory Course Requirements (in advance of a License) for Applicants Seeking Waiver of Minimum Education Requirements

This recommendation is in conjunction with Recommendation 4B to collaborate with the Oregon Community Colleges to provide these Bar approved courses.

All applicants seeking a waiver of the minimum education requirements must complete twenty (20) courses approved by the Board within twelve months before the application date.

Mandatory Course Subjects (in advance of a License):

1. Three (3) hours must cover Diversity, Equity and Inclusion, and/or Access to Justice. Three principles should guide access to Justice CLE credit:
 - a. Promote access to justice by eliminating systemic barriers that prevent people from understanding and exercising their rights.
 - b. Work to achieve fairness by delivering fair and just outcomes for all parties, including those facing financial, racial, gender, or equity disparities.
 - c. Address systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard. Access to Justice Courses should include activities directly related to the practice of law and designed to educate the licensed paraprofessionals to recognize, identify and address within the legal profession barriers to access to justice arising from both the provision of legal services and from the practice of law and should address each of the following topics:
 - i. Age
 - ii. Culture
 - iii. Disability
 - iv. Ethnicity
 - v. Gender and gender identity or expression
 - vi. Geographic location
 - vii. Immigration status
 - viii. National origin
 - ix. Race
 - x. Religion
 - xi. Sex and sexual orientation
 - xii. Socioeconomic status
 - xiii. Veteran status
2. Two (2) hours of Legal Ethics (Oregon Code of Professional Responsibility);
3. One (1) hour must cover IOLTA account administration;
4. Two (3) hours must cover introductory Oregon Rules of Civil Procedures to include:
 - a. Oregon State Specific Court Practice for Trial Court Rules including Uniform Trial Court Rules,
 - b. Supplemental Local Rules; and

- c. Uniform Trial Court Rules;
- 5. One (1) hour must cover identifying Scope of License and Practical Identification of Mandatory Referral Scenarios;
- 6. One (1) hour must cover education on limited scope law practice management skills for newly licensed paraprofessionals;
- 7. One (1) hour must cover Mandatory Reporting of Child Abuse and Sexual Abuse;
- 8. One (1) hour must cover Mandatory Reporting of Elder Abuse;
- 9. One (1) hour must cover mental health/substance abuse in the legal profession; and
- 10. Remaining six (6) hours must cover the practice area seeking Endorsement and must be accredited by the Oregon State Bar Minimum Continuing Legal Education Program Manager, which should include CLES approved for attorneys or paralegals;

Recommendation #15 - Renewal of License

- 1. Continue to meet the moral character and fitness standards to practice law under the LP program;
- 2. Continue to comply with Professional Rules of Conduct;
- 3. Submit a Paraprofessional License Renewal application and pay the appropriate fee, as set forth by the OSB Board of Governors;
- 4. Submit the required number and type of Mandatory CLE Requirements (after Endorsement) for the Renewal of the LP every three years.

Recommendation #16 - Mandatory CLE Requirements for Renewal of LP Endorsements

All applicants seeking to renew their Endorsement in a specific practice area must complete 40 hours of continuing legal education every three years as approved by the Board.

Mandatory CLE Subjects (after Endorsement):

- 1. Three (3) hours must cover Diversity, Equity and Inclusion, and/or Access to Justice. Three principles should guide access to Justice CLE credit:
 - a. Promote access to justice by eliminating systemic barriers that prevent people from understanding and exercising their rights.
 - b. Work to achieve fairness by delivering fair and just outcomes for all parties, including those facing financial, racial, gender, or equity disparities.
 - c. Address systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard. Access to Justice Courses should include activities directly related to the practice of law and designed to educate the licensed paraprofessionals to recognize, identify and address within the legal profession barriers to access to justice arising from both the provision of legal services and from the practice of law and should address each of the following topics:
 - i. Age
 - ii. Culture
 - iii. Disability
 - iv. Ethnicity

- v. Gender and gender identity or expression
 - vi. Geographic location
 - vii. Immigration status
 - viii. National origin
 - ix. Race
 - x. Religion
 - xi. Sex and sexual orientation
 - xii. Socioeconomic status
 - xiii. Veteran status
2. Four (4) hours of Legal Ethics (Oregon Code of Professional Responsibility);
 3. One (1) hour must cover IOLTA account administration;
 4. Two (2) hours must cover Updates to Oregon Rules of Civil Procedures;
 5. One (1) hour must cover identifying Scope of License and Practical Identification of Mandatory Referral Scenarios;
 6. One (1) hour must cover Mandatory Reporting of Child Abuse or Sexual Abuse;
 7. One (1) hour must cover Mandatory Reporting of Elder Abuse;
 8. One (1) hour must cover Mental Health/Substance Abuse in the Legal Profession; and
 9. Remaining twenty-six (26) hours must cover the practice area seeking Endorsement and must be accredited by the Oregon State Bar Minimum Continuing Legal Education Program Manager, which should include CLES approved for attorneys or paralegals;
 10. The Oregon State Bar should offer low or no-cost options for the paraprofessional licensees to access CLEs, like those provided to new attorneys or student learners, including access to bar books, PLF recorded CLEs, etc.
 11. MCLE Program should offer the same access to free or low-cost CLEs available to new attorneys or student learners; access to bar materials; preferred rates such as those provided to attorneys with less practice experience.
 12. MCLE to offer CLEs in the practice area-specific topics.
 13. Applicants showing good faith efforts should be allowed to complete CLES within a 12-month window in advance of their application.
 14. OSB to create an LP section and make available through Bar Membership.
 15. LPs seeking renewal of multiple endorsements may use CLEs for duplicative license renewals, except the specific subject matter CLEs required for the renewal must be unique and specific to the endorsement content and fulfill the number required for this purpose.

Recommendation #17 – Metrics for Measuring Success of Program

1. Monitor and evaluate the program's success, including measuring the program using existing metrics, such as bar complaints and the number of client representations, case types, and impacts on those numbers.
2. Number of LPs and renewals.
3. Polls and assessments of end-users, LPs, and the Courts.
4. The end-user experience is crucial and should be considered at the beginning, middle, and end of the evaluation (number of individuals served for example).
5. Financial viability as a program and as a LP.

6. Measure impact of those accessing the legal services through a decrease in the number of self-represented individuals and other metrics as approved by the Bar.
7. Measure the success of LP service providers periodically through self-reporting to include financial and client representation case types and numbers and if the LP stops practicing in a specific practice area before the renewal period.

**Attachment A: Sample Attorney Certification of
Substantive Paralegal Experience [Template]**

[Date]

Oregon State Bar
Attn. Admissions
PO Box 231935
Tigard, OR 97281-1935
admissions@osbar.org

Dear Board of Admissions

RE: Certification of [Applicant Name]'s Substantive Paralegal Experience for Application for Endorsement in [Document Preparation], [Family Law] or [Landlord/Tenant]

Dates of employment performing paralegal duties from [month/year] to [month/year].

Type of employment: [Full time] [Part time]

Average number of hours worked per week: _____

Confirmation that a majority of the Applicant's time was spent performing substantive paralegal tasks that would otherwise have been performed by an attorney and would not otherwise be considered administrative duties.

List the types of substantive duties performed by applicant. Please use as much room as necessary to detail the list of duties as appropriate). Some possible examples of substantive duties may include: draft and revise pleadings; draft motions and orders, draft parenting plans/financial disclosure statements; communicate with clients, counsel and court representatives, etc.

For subject matter specific experience verification, confirm:

1. The applicant meets the 1/3 hours of 1,500 hours requirement, or 500 hours, in Family Law; Yes _____ No _____
2. The applicant meets the 1/6 hours of 1,500 hours requirement, or 250 hours, in landlord/tenant or eviction matters? Yes _____ No _____

I support this individual's application and believe them to be competent in the practice area seeking Endorsement. I declare that all the information provided above is true and accurate.

Attorney name/Bar Number
Attorney Signature
Attorney email address
Attorney phone number

Attachment B: Summary of Capstone Assessment Program of Paralegal Students at Portland Community College

Assessment of Competency

The PCC paralegal program employs a variety of means to assess the efficacy of its program, and to provide program level snapshots of student learning. The primary methods used to assess program efficacy include a capstone portfolio project, exit surveys from graduating students, course evaluations for all courses, faculty assessments, six-month graduate employment surveys, occasional student surveys, and surveys of paralegal employers. The faculty in the program review the assessment information to inform changes to the program. The College reviews the assessment results to ensure that the program's students are achieving its stated outcomes.

Portfolio as a Means of Assessment

The PCC Experience

For many years, PCC used a complex and extensive portfolio project embedded in a required paralegal course to assess our degree and certificate outcomes. In a Portfolio project, students select artifacts to demonstrate competence in, or satisfaction of, specified program outcomes. For example, to demonstrate competence in legal analysis and writing, students would select an analytical legal document, or to demonstrate competence in technology, students would take and report industry-standard testing results that meet a defined level of accomplishment. The Portfolio also included a cover letter and resume, and a reflection essay intended to articulate the student's attainment of competence in each specified outcome area, and the relationship between the outcome area and the artifact selected. The completed portfolio was reviewed by the assigned faculty member for the student's grade and was then passed to a panel of legal professionals to review and comment upon in a brief one-on-one meeting with the student. If the student satisfied the panel that they demonstrated competence in almost all the outcome areas via the portfolio and the meeting, the student would pass the class and graduate from the paralegal program. Over the time PCC has implemented the portfolio, the outcomes measured have been reorganized and pared down, to reflect the reality that a portfolio project demands significant resources in both classroom time with students to explain and review the portfolio project, and volunteer and other assistance from the community to review the portfolios.

Currently, PCC uses a project, called a Capstone, which is a portfolio-based project, to measure four program outcomes. The Capstone includes a resume and cover letter to the student's dream position, a writing sample of 10-pages or less, and a reflective essay describing how the student attained the outcomes and the relationship between the artifact selected and the outcomes. The Capstone is scored by the class instructor based upon a specific set of performance criteria integrated into a scoring rubric. Students have opportunities to revise their work in response to feedback. Once the Capstone is finalized, students are matched with a legal professional (based on location or area of practice) who volunteers to review the Capstone and score it using specified criteria in a rubric. This

rubric asks the legal professional to rank the student as exceeding criteria, meeting criteria, or failing to meet criteria in the four specified outcome areas. The legal professional then meets with the student to discuss their Capstone, their career plans, and other informational topics. The legal professional then returns the completed scoring sheet to the program and student. The scoring of the Capstone by the instructor yields the course grade, but the Capstone determines whether the student can graduate the program or not - a successful Capstone must be completed and reviewed for a student to earn a passing grade in the class.

Portfolio Projects in General

The approach of mapping specified outcomes to artifacts and using the artifacts to demonstrate specific competencies is the essence of a portfolio-based assessment. The necessary ingredients for designing a defensible portfolio review include: (1) specific assessable outcomes; (2) a sufficiently limited number of specific outcomes to be reasonably assessable via the portfolio method; (3) trained portfolio reviewers with acceptable inter-rater reliability; (4) guidelines for participants on what items to include (a portfolio with more than 3-4 artifacts and a reflective essay will likely be too extensive to reasonably review); (5) scoring criteria to judge the quality of the portfolio; and (6) established standards of performance and examples (e.g. examples of high, mid, and low scoring portfolios).

Once these ingredients have been developed, implementing the portfolio process takes three primary steps. First, the authority must communicate with applicants about how to: (a) collect artifacts; (b) select artifacts and map them to specific outcomes; (c) write a reflective essay that explains their selection and how the artifacts demonstrate their satisfaction of the specific outcomes; and (d) format and submit the document. Next, the authority organizes the scoring of the portfolios using the scoring criteria and reviewers who have been shown examples and completed inter-rater reliability training. Finally, the authority collects the portfolio scoring sheets and portfolios from the reviewers.

The primary advantage of using a portfolio-based assessment is that this type of assessment is particularly well suited to assessing complex tasks with examples of different types of work. The primary disadvantage of using a portfolio-based assessment is the cost and time associated with training reviewers and reviewing the portfolios.

Attachment C: Summary of the Florida Bar’s Florida Registered Paralegal (FRP) CLE Program

In 2008, the Florida Registered Paralegal Committee was created after the Supreme Court of Florida adopted [Ch. 20](#) of the Rules Regulating The Florida Bar, which establishes the Florida Registered Paralegal Program, a voluntary registration for paralegals which also outlines how complaints are handled against a Florida Registered paralegal. To become a Florida registered paralegal (FRP), a paralegal must meet one of three eligibility requirements — education and training, certification by NALA or NAFP, or grandfathering through work experience alone. However, the grandfathering provision was designed to sunset in three years from its adoption, which was March 2011.

The [Florida Registered Paralegal Enrichment Committee](#) is charged with developing education programming, creating networking and social events to foster camaraderie among FRPs, and raising awareness of the FRP program and the benefits of FRP membership. The [Florida Registered Paralegal Enrichment Committee](#) is the committee that sponsors the monthly Continuing Education (CE). The Committee has a CE Subcommittee, and this Subcommittee is responsible for finding the CE speakers. Once they find the speaker, the administrator works with the speaker to get the course approved for TFB CE and set up all the logistics for the monthly CE currently offered via zoom. During the shutdown caused by COVID, the Subcommittee went virtual and now has a free monthly CE as a membership benefit for their FRP credential holders.

Francisco-Javier P. Digon-Greer, Esq.
Assistant Director, Programs Division
The Florida Bar

Attachment D: Examples of Action Items and Specific Tasks that could be used to assess the Competencies identified in the Futures Task Force Recommendation 1.2

- Access to Justice
 - Promote access to justice by eliminating systemic barriers that prevent people from understanding and exercising their rights.
 - Work to achieve fairness by delivering fair and just outcomes for all parties, including those facing financial, racial, gender, or equity disparities.
 - Address systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard. Access to Justice Courses should include activities directly related to the practice of law and designed to educate the licensed paraprofessionals to recognize, identify and address within the legal profession barriers to access to justice arising from both the provision of legal services and from the practice of law and should address each of the following topics.
 - Access to Justice Courses should include activities directly related to the practice of law and designed to educate the licensed paraprofessionals to recognize, identify and address, within the legal profession, barriers to access to justice arising from both the provision of legal services and from the practice of law and should include each of the following topics⁷:
 - Age
 - Culture
 - Disability
 - Ethnicity
 - Gender and gender identity or expression
 - Geographic location
 - Immigration status
 - National origin
 - Race
 - Religion
 - Sex and sexual orientation
 - Socioeconomic status
 - Veteran status
- Enter a contractual relationship with an unrepresented party to provide advice and assistance in domestic relation proceedings.
- Assist clients in court-sponsored mediation.
- Consult with clients to understand their needs and goals and obtain facts relevant to achieving the client's objectives.
- Support clients in navigating the legal system by providing information and advice relating to the Family Law proceedings, including:
 - Explain the process and timelines;
 - Explain what to expect at a hearing;

⁷ The Admissions & Education Committee feel strongly that the language incorporated into Recommendation 5(4)(xxii-xxiv) and (5)(xxvi-xxviii) is exemplary of the higher goals of access to justice and equity designed to not only identify systemic issues, but as a larger goal of changing the very system that creates it.

- Help clients understand court scheduling, protocols and procedures, what to bring, and how to dress and act in court.
- Guide clients through court-specific procedures, requirements, and operations.
- Review documents and exhibits of another party, explain those documents and exhibits to clients, and communicate with another party or the party's representative(s) regarding the relevant forms and matters.
- Advise clients on other documents or pleadings that may be necessary to support the client's case and explain how such additional documents or pleadings may affect the client's case.
- Assist clients in understanding the relevance of facts in their case and organizing their evidence and paperwork to present to the court, including where and how to obtain necessary documents or records.
- Provide the clients with self-help materials prepared by an Oregon lawyer, approved by the Oregon State Bar, or approved by the court containing information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements.
- Advise clients to seek legal advice from an attorney if a licensee knows or reasonably should know that a client requires services outside of the limited scope of practice.
- Provide emotional and administrative support to the client in court.
- Provide second-hand trauma coping resources—the ability to refer to mental health specialists when necessary.
- Screen for domestic violence, child abuse, and elder abuse. Ability to refer to shelters and report abuse as required by statute.
- Promote access to justice by eliminating systemic barriers that prevent people from understanding and exercising their rights.
- Achieve fairness by delivering fair and just outcomes for all parties, including those facing financial, racial, gender, or other equity disparities.
- Address systemic failures that lead to a lack of confidence in the justice system by creating meaningful and equitable opportunities to be heard.
- Be able to appropriately identify and apply Oregon State Courts' rules and procedures, including process for submission of evidence, trial prep, and service requirements.
- Assist qualifying clients and their families who are victims of domestic violence, sexual assault, or stalking to understand their rights and procedure for terminating their tenancy or retaining possession following the perpetrator's removal.
- Assist qualifying servicemembers and their families to understand and apply for a stay of eviction proceedings.
- Assist clients to understand the process and timeline for recovering abandoned personal property post-tenancy.
- Assist clients in selecting and completing the forms and understanding the process and procedure to bring an action for recovery of personal property.
- Consult with clients to understand the client's needs and goals and obtain facts relevant to achieving the client's objectives.
- Support clients in navigating the legal system by providing information and advice relating to the landlord/tenant matters and eviction proceedings, including:

- Explain the process and timelines;
 - Explain what to expect at a hearing;
 - Help clients understand court scheduling, protocols and procedures, what to bring, and how to dress and act in court.
- Apply and identify elements of diminished capacity to client's unique situation.

Table 1 – Eligibility Pathways Summary

Pathway	Education, Certification, Licensure, or Military Experience	Substantive Paralegal Experience verified through Attorney Certification . A portion of the hours may also be obtained through a supervised practicum/internship overseen by a qualifying paralegal program	Education Requirements
Document Preparer *Limited in scope, No legal advice may be provided	Associates Degree or higher in Paralegal Studies from an institutionally accredited paralegal program	1,500 hours within the last three years	Competencies assessed by a Board or Committee under the Bar
Standard Endorsement in either Family Law or Landlord/Tenant	Associates Degree or higher in Paralegal Studies from an institutionally accredited paralegal program	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	Competencies assessed by a Board or Committee under the Bar
Highly Experienced Paralegal I – Education Waiver	N/A	Five years or 7,500 hours, with a minimum of 1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Highly Experienced Paralegal II – Education Waiver	Have current paralegal credentials from a national paralegal association, including one of the following: CP, RP, CRP, or PP	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Highly Experienced	Active duty, retired, former military, or	1,500 hours within the last three years; 1/3 or 500 hours	20 hours predetermined courses in advance of

Paralegal III – Education Waiver	the reserve component of any branch of the US Armed Forces, rank of E6 or above in a paralegal specialty rate or higher as a supervisory paralegal.	must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	Endorsement, with Competencies assessed by a Board or Committee under the Bar
Admission by Motion – Education Waiver	Licensed to practice in another jurisdiction	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
Other Education – Education Waiver	Applicants with one of the following: a Masters or Ph.D. in any course of study; or a Bachelor degree or higher in any course of study; or Applicants with an Associate degree or higher in any course of study + a paralegal certificate	1,500 hours within the last three years; 1/3 or 500 hours must be in Family Law to receive that Endorsement or 1/6 or 250 hours must be in landlord/tenant and evictions to receive that Endorsement	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar
JD Degree – Education Waiver	Applicants with a J.D. Degree from an ABA-Approved law school	Minimum 6-months or 750 hours of substantive experience should include substantive paralegal experience, as defined above; law clerk experience; court proceeding observation (self-certification of no more than 100 hours) or work in pro bono or low bono.	20 hours predetermined courses in advance of Endorsement, with Competencies assessed by a Board or Committee under the Bar

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Oregon State Bar

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