

Rule 1.10. Imputation of Conflicts of Interest: General Rule.

1 (a) While licensed paralegal practitioners are associated in a firm, none of them
2 shall knowingly represent a client when any one of them practicing alone would be prohibited
3 from doing so by Rules 1.7 or 1.9, unless the prohibition is based on a personal interest of the
4 prohibited licensed paralegal practitioner and does not present a significant risk of materially
5 limiting the representation of the client by the remaining licensed paralegal practitioners in the
6 firm.

7 (b) When a licensed paralegal practitioner has terminated an association with a firm, the firm
8 is not prohibited from thereafter representing a person with interests materially adverse to those
9 of a client represented by the formerly associated licensed paralegal practitioner and not
10 currently represented by the firm, unless:

11 (b)(1) the matter is the same or substantially related to that in which the formerly associated
12 licensed paralegal practitioner represented the client; and

13 (b)(2) any licensed paralegal practitioner or licensed paralegal practitioner remaining in
14 the firm has information protected by Rules 1.6 and 1.9(c) that is material to the matter.

15 (c) When a licensed paralegal practitioner becomes associated with a firm, no licensed
16 paralegal practitioner or licensed paralegal practitioner associated in the firm
17 shall knowingly represent a person in a matter in which that licensed paralegal practitioner is
18 disqualified under Rule 1.9 unless:

19 (c)(1) the personally disqualified licensed paralegal practitioner is timely screened from any
20 participation in the matter and is apportioned no part of the fee therefrom, and

21 (c)(2) written notice is promptly given to any affected former client.

22 (d) A disqualification prescribed by this Rule may be waived by the affected client under the
23 conditions stated in Rule 1.7.

24 (e) The disqualification of licensed paralegal practitioners associated in a firm with former or
25 current government licensed paralegal practitioners is governed by Rule 1.11.

26 (f) Reserved.

27
28 Comment

29 Definition of "Firm"

30 [1] “Firm,” as used in this rule, is defined in Rule 1.0(d). Whether two or more licensed
31 paralegal practitioners constitute a firm for purposes of determining conflict imputation can
32 depend on the specific facts. See Rule 1.0, Comments [2] - [4].

33 Principles of Imputed Disqualification

34 [2] The rule of imputed disqualification stated in paragraph (a) gives effect to the principle of
35 loyalty to the client as it applies to licensed paralegal practitioners who practice in a law firm.
36 Such situations can be considered from the premise that a firm of licensed paralegal practitioners
37 is essentially one licensed paralegal practitioner for purposes of the rules governing loyalty to the
38 client, or from the premise that each licensed paralegal practitioner is vicariously bound by the
39 obligation of loyalty owed by each licensed paralegal practitioner with whom the licensed
40 paralegal practitioner is associated. Paragraph (a) operates only among the licensed paralegal
41 practitioners currently associated in a firm. When a licensed paralegal practitioner moves from
42 one firm to another, the situation is governed by Rules 1.9(b) and 1.10(b).

43 [3] The rule in paragraph (a) does not prohibit representation where neither questions of
44 client loyalty nor protection of confidential information are presented. Where one licensed
45 paralegal practitioner in a firm could not effectively represent a given client because of strong
46 political beliefs, for example, but that licensed paralegal practitioner will do no work on the case
47 and the personal beliefs of the licensed paralegal practitioner will not materially limit the
48 representation by others in the firm, the firm should not be disqualified. On the other hand, if an
49 opposing party in a case were owned by a licensed paralegal practitioner in the law firm, and
50 others in the firm would be materially limited in pursuing the matter because of loyalty to that
51 licensed paralegal practitioner, the personal disqualification of the licensed paralegal practitioner
52 would be imputed to all others in the firm.

53 [4] The rule in paragraph (a) also does not prohibit representation by others in the firm where
54 the person prohibited from involvement in a matter is neither an attorney nor a licensed paralegal
55 practitioner, such as a licensed paralegal or legal secretary. Nor does paragraph (a) prohibit
56 representation if the licensed paralegal practitioner is prohibited from acting because of events
57 before the person became a licensed paralegal practitioner, for example, work that the person did
58 while a student. Such persons, however, ordinarily must be screened from any personal
59 participation in the matter to avoid communication to others in the firm of confidential

60 information that both the nonparalegal practitioners and the firm have a legal duty to protect. See
61 Rule 5.3.

62 [5] Rule 1.10(b) operates to permit a law firm, under certain circumstances, to represent a
63 person with interests directly adverse to those of a client represented by a licensed paralegal
64 practitioner who formerly was associated with the firm. The rule applies regardless of when the
65 formerly associated licensed paralegal practitioner represented the client. However, the law firm
66 may not represent a person with interests adverse to those of a present client of the firm, which
67 would violate Rule 1.7. Moreover, the firm may not represent the person where the matter is the
68 same or substantially related to that in which the formerly associated licensed paralegal
69 practitioner represented the client and any other licensed paralegal practitioner currently in the
70 firm has material information protected by Rules 1.6 and 1.9(c).

71 [6] Rule 1.10(d) removes imputation with the informed consent of the affected client or
72 former client under the conditions stated in Rule 1.7. The conditions stated in Rule 1.7 require
73 the licensed paralegal practitioner to determine that the representation is not prohibited by Rule
74 1.7 and that each affected client or former client has given informed consent to the
75 representation, confirmed in writing. In some cases, the risk may be so severe that the conflict
76 may not be cured by client consent. For a discussion of the effectiveness of client waivers of
77 conflicts that might arise in the future, see Rule 1.7, Comment [22]. For a definition of informed
78 consent, see Rule 1.0(f).

79 [7] Where a licensed paralegal practitioner has joined a private firm after having represented
80 the government, imputation is governed by Rule 1.11(b) and (c), not this Rule. Under Rule
81 1.11(d), where a licensed paralegal practitioner represents the government after having served
82 clients in private practice, nongovernmental employment or in another government agency,
83 former-client conflicts are not imputed to government licensed paralegal practitioners associated
84 with the individually disqualified licensed paralegal practitioner.

85 [8] Where a licensed paralegal practitioner is prohibited from engaging in certain transactions
86 under Rule 1.8, paragraph (k) of that Rule, and not this Rule, determines whether that prohibition
87 also applies to other licensed paralegal practitioners associated in a firm with the personally
88 prohibited licensed paralegal practitioner.

Effective November 1, 2018