

Rule 1.15. Safekeeping Property.

1 (a) A licensed paralegal practitioner shall hold property of clients or third persons that is in a
2 licensed paralegal practitioner’s possession in connection with a representation separate from the
3 licensed paralegal practitioner’s own property. Funds shall be kept in a separate account
4 maintained in the state where the licensed paralegal practitioner’s office is situated or elsewhere
5 with the consent of the client or third person. The account may only be maintained in a financial
6 institution that agrees to report to the Office of Professional Conduct in the event any instrument
7 in properly payable form is presented against an attorney or licensed paralegal practitioner trust
8 account containing insufficient funds, irrespective of whether or not the instrument is
9 honored. Other property shall be identified as such and appropriately safeguarded. Complete
10 records of such account funds and other property shall be kept by the licensed paralegal
11 practitioner and shall be preserved for a period of five years after termination of the
12 representation.

13 (b) A licensed paralegal practitioner may deposit the licensed paralegal practitioner’s own
14 funds in a client trust account for the sole purpose of paying bank service charges on that
15 account, but only in an amount necessary for that purpose.

16 (c) A licensed paralegal practitioner shall deposit into a client trust account legal fees and
17 expenses that have been paid in advance, to be withdrawn by the licensed paralegal practitioner
18 only as fees are earned or expenses incurred.

19 (d) Upon receiving funds or other property in which a client or third person has an interest, a
20 licensed paralegal practitioner shall promptly notify the client or third person. Except as stated in
21 this Rule or otherwise permitted by law or by agreement with the client, a licensed paralegal
22 practitioner shall promptly deliver to the client or third person any funds or other property that
23 the client or third person is entitled to receive and, upon request by the client or third person,
24 shall promptly render a full accounting regarding such property.

25 (e) When in the course of representation a licensed paralegal practitioner is in possession of
26 property in which two or more persons (one of whom may be the licensed paralegal practitioner)
27 claim interests, the property shall be kept separate by the licensed paralegal practitioner until the
28 dispute is resolved. The licensed paralegal practitioner shall promptly distribute all portions of
29 the property as to which the interests are not in dispute.

31 Comment

32 [1] A licensed paralegal practitioner should hold property of others with the care required of
33 a professional fiduciary. Securities should be kept in a safe deposit box, except when some other
34 form of safekeeping is warranted by special circumstances. All property which is the property of
35 clients or third persons, including prospective clients, must be kept separate from the licensed
36 paralegal practitioner's business and personal property and, if monies, in one or more trust
37 accounts. In addition to normal monthly maintenance fees on each account, licensed paralegal
38 practitioners can anticipate that financial institutions may charge additional fees for reporting
39 overdrafts in accordance with this Rule. A licensed paralegal practitioner should maintain on a
40 current basis books and records in accordance with generally accepted accounting practice and
41 comply with any recordkeeping rules established by law or court order.

42 [2] While normally it is impermissible to commingle the licensed paralegal practitioner's
43 own funds with client funds, paragraph (b) provides that it is permissible when necessary to pay
44 bank service charges on that account. Accurate records must be kept regarding which part of the
45 funds are the licensed paralegal practitioner's.

46 [3] Licensed paralegal practitioners often receive funds from third parties from which the
47 licensed paralegal practitioner's fee will be paid. The licensed paralegal practitioner is not
48 required to remit to the client funds that the licensed paralegal practitioner reasonably believes
49 represent fees owed. However, a licensed paralegal practitioner may not hold funds to coerce a
50 client into accepting the licensed paralegal practitioner's contention. The disputed portion of the
51 funds must be kept in a trust account, and the licensed paralegal practitioner should suggest
52 means for prompt resolution of the dispute, such as arbitration. The undisputed portion of the
53 funds shall be promptly distributed.

54 [4] Paragraph (e) also recognizes that third parties may have lawful claims against specific
55 funds or other property in a licensed paralegal practitioner's custody. A licensed paralegal
56 practitioner may have a duty under applicable law to protect such third-party claims against
57 wrongful interference by the client. In such cases, when the third-party claim is not frivolous
58 under applicable law, the licensed paralegal practitioner must refuse to surrender the property to
59 the client until the claims are resolved. A licensed paralegal practitioner should not unilaterally
60 assume to arbitrate a dispute between the client and the third party.

61 [5] The obligations of a licensed paralegal practitioner under this Rule are independent of
62 those arising from activity other than rendering legal services. For example, a licensed paralegal
63 practitioner who serves as an escrow agent is governed by the applicable law relating to
64 fiduciaries even though the licensed paralegal practitioner does not render legal services in the
65 transaction and is not governed by this Rule.

66 [6] A licensed paralegal practitioners' fund for client protection provides a means through the
67 collective efforts of the Bar to reimburse persons who have lost money or property as a result of
68 dishonest conduct of a licensed paralegal practitioner. Where such a fund has been established, a
69 licensed paralegal practitioner must participate where it is mandatory, and, even when it is
70 voluntary, the licensed paralegal practitioner should participate.

Effective November 1, 2018