

GUIDELINES FOR LICENSED PARALEGALS DRAFTING ENGAGEMENT LETTERS

Licensed paralegals must use a written agreement signed by the client prior to providing any legal services. The written agreement must comply with specific requirements in ORPC-LP 1.5. The following guidelines are provided to assist you in drafting your written agreement that addresses both mandatory requirements and optional provisions designed to facilitate your engagements with clients.

- ❑ **Acceptance of Engagement** – Clearly state that the client has agreed to hire you and you have agreed to represent the client.
- ❑ **Identification of the Client** – Identify who the client is and who the client is **not**. Clarify whether the client is an individual, a corporation, a partnership, etc. If there are other parties closely affiliated with the client, explicitly disclaim representation of those parties.
- ❑ **Purpose of Engagement** – You must state the purpose for which you have been retained. ORPC-LP 1.5(f)(1).
- ❑ **Services to be Performed** – You must describe the work to be done. ORPC-LP 1.5(f)(2). Define the scope of representation by specifying what you will and **will not do** for the client (e.g., “I have agreed to do A, B, and C, but not X, Y, and Z”). If the client has additional or future legal needs not covered by this engagement letter, state whether that additional work will need a separate engagement letter or whether an addendum to this engagement letter is sufficient.
- ❑ **Not an Attorney** – You must include a statement printed in 14-point boldface type in your engagement letter that you’re not an attorney and are limited to practice in the scope of practice in which you are licensed. ORPC-LP 1.5(f)(4).
- ❑ **Fees and Billing** – Include the following fee and billing information in the engagement letter or use a separate fee agreement. Any separate fee agreement you have with the client must be in writing and signed by the client. Be aware that contingent fee arrangements in domestic relations matters are not allowed under ORPC-LP 1.5(c)(1).
 - *Payor* – Specify who is responsible for paying your legal fees. If a third party is responsible, comply with ORPC-LP 1.8(f) to make proper disclosure and get the client’s informed consent. Redact your billing statements if they are sent to the third party to protect client information. See OSB Formal Ethics Op 2005-157 (rev 2016). Specify who should get any prepaid but unearned fees when the representation concludes.
 - *Fees and rates* – You must specify your hourly rate and explain how it is calculated. Consider explaining the types of tasks or activities for which the client will be billed. If the matter is accepted on a flat fee basis, specify the exact amount and what services it will cover. ORPC-LP 1.5(f)(3).
 - *Prepaid fee* – If you use a prepaid fee, you must comply with ORPC-LP 1.5(c)(3) and ORPC-LP 1.5(c)(4). You must have a written fee agreement that clearly identifies the fee as a “prepaid fee.” The letter must explain the nature of the fee arrangement, define the scope of the services provided, state the total amount of the fee, and describe the terms of payment. The letter must also specify that the funds will not be deposited into your LP trust account. Additionally, it must inform the client that they may discharge you any time, and if they do, they may be entitled to a refund of all or part of the fee for services not yet performed. ORPC-LP 1.5(c)(4).
 - *Retainer (deposit) or advanced flat fee* – If you’re requesting a retainer or charging a flat fee paid in advance, specify the amount and explain that the

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money will be deposited in your LP trust account to be withdrawn only after work is completed and a statement is sent to the client. (*Reminder for LP: Any interest earned on these funds must be paid to the Oregon Law Foundation as required by the OSB Rules of Licensure, Title 6.2(5)*)

- *Expenses and costs* – You must explain who is responsible for costs and expenses incurred in the matter. Specify which expenses may be advanced by you and which are paid directly by the client. If you plan to advance expenses, clearly state the client’s obligation to pay you back. ORPC-LP 1.5(f)(3).
- *Consequence of nonpayment* – State what will happen if the client fails to make timely payment or keep current on the retainer balance.
- *Billing procedures* – State how often the client will be billed (e.g., monthly), when the client will be billed (e.g., end or beginning of the month), how the client will receive the billing statement (e.g., by mail or email), when payment is due or when funds are withdrawn from the trust account, and the procedures for withdrawing funds.
- **Client’s Obligations** – Describe the client’s responsibilities, which should include: (1) providing complete and accurate information to the best of the client’s knowledge; (2) notifying you of changes to personal and residence information; and (3) cooperating with you in the representation of the case. Outline other responsibilities or tasks that the client needs to fulfill, decisions to be made, or documents or information to produce.
- **Joint Representation** – Disclose issues related to the representation of two or more clients on the same matter and obtain proper client consent and waiver before proceeding with the representation.
- **Conflicts of Interest** – Disclose personal conflicts, imputed conflicts, and conflicts with current and past clients in the written engagement letter or in a separate “disclosure and waiver of conflict” letter signed by the client. See sample “Conflict Disclosures and Consent Letters” available on the PLF website, www.osbplf.org.
- **Communication Guidelines** – Specify the best date/time and method (email, text, phone, client portal, etc.) for the client to reach you. Explicitly state when you’re not available. Also specify how the client should contact you in an emergency and explain what an emergency means. Include the client’s preferred modes of contact, availability, and emergency contact. Provide guidance on whether the client can or should use a work computer or email to communicate with you.
- **File Storage/Retention/Destruction** – Specify whether it’s your practice to store the client’s file in digital format or on the cloud and what happens to the paper file. State how long you will retain a copy of the file and what will happen to it after the retention period. The PLF recommends that legal professionals store a copy of the client file for 10 years from the date the matter is closed unless there is a legal requirement to maintain it longer, and then to securely destroy the files after that.
- **Commencement of Legal Work** – State that work on the matter will not begin unless the client signs and returns the engagement letter and pays the agreed-upon advance deposit.
- **Client’s Understanding of and Letter to the Terms** – Include a statement that the client will let you know promptly if the client disagrees with or doesn’t understand any of the terms of engagement and that, by signing the engagement letter, the client understands and agrees to the terms.

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- ❑ **Reporting to the Oregon State Bar** – You must include a statement to inform clients that they may report complaints related to you as a licensed paralegal or unauthorized practice of law to the Client Assistance Office of the Oregon State Bar. Reports can be made by phone at 503.620-0222 or 800.452.8260 (toll-free) or through the Bar’s website at <https://www.osbar.org/public/legalinfo/1174.htm>. ORPC-LP 1.5(f)(5).
- ❑ **Client’s Signature** – The client must sign your written engagement letter or fee agreement before you represent them. ORPC-LP 1.5(f). Provide a space in your letter for their signature as well as yours.
- ❑ **Termination of Engagement** – Inform the client of the right to terminate the LP-client relationship at any time. State that the client’s decision to terminate will not generally excuse the client’s obligation to pay for work already performed on behalf of the client. Also consider reserving your right to terminate the representation if the client fails to fulfill the obligations outlined in the engagement letter, falls unreasonably behind on payments, or other circumstances—to the extent permitted by the Oregon Rules of Professional Conduct for Licensed Paralegals.

IMPORTANT NOTICES

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