



Committee on Professional Ethics

Opinion #393 - 5/29/75 (32-75)

Topic: Law Clerk

Digest: Law Clerk's activities
are limited.

Code: EC 3-6

QUESTION

What activities may be properly delegated to a law clerk on whose behalf a certificate of clerkship has been filed?

OPINION

A law clerk on whose behalf a certificate of clerkship has been filed falls within the category of legal assistant and is subject to the restrictions imposed on other non-lawyer aids to lawyers. The degree of responsibility which may be entrusted to individual legal assistants may vary according to their education and experience, but absent some statute or rule of court, their services may be employed by lawyers only within the limits of the Code.

Accordingly, the guidelines affecting the conduct of law clerks, paralegals and other non-lawyer assistants are applicable. See, e.g., N. Y. State 44 (1967); N. Y. State 255 (1972); N. Y. State 261 (1972); N. Y. State 299 (1973); N. Y. State 304 (1973); N. Y. State 343 (1974); N. Y. State 347 (1974); N. Y. County 641 (1974); N. Y. City 884 (1974); EC 3-6. This Code provision states:

"A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently."

As N. Y. City 884 (1974) and N. Y. County 641 (1974) are particularly comprehensive on this subject, reference is directed to such opinions for appropriate guidance. See also, the proposed Guidelines for Attorneys for the Use of Legal Assistants (1975), prepared by the Special Committee on Professional Economics and Efficiency Research of the New York State Bar Association. Cf. the recently adopted Student Practice Rule of the United States District Court for the Eastern District of New York, effective September 1, 1975 relating to practice by students duly enrolled in an approved law school.

This opinion is limited to the ethical aspects of a law clerk's activities and does not extend to questions relating to the improper practice of the law.
