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Legal Writing

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Legal Writing

LAW

Best Practices for Legal Writing in the Workplace

The Objective: Legal Memo or Interoffice Memo

Lawyers are professional writers. Writing is the most important skill law students must master.

1. It is the lawyer's basic work product—generally legal analysis.
2. Good memo organization, issue framing, and legal analysis is a professional format.
3. It is objective. It is not persuasive and does not advocate in favor of one position.

Examples in this Guide

• Items in *italics* usually are requests to identify what immediately follows them.

• There are *no* instructive passages—not what you actually write in a memo (shown in *italics*), are things that you would have to supply (i.e., proper citations to legal authority).

THE ESSENTIALS OF A LEGAL MEMORANDUM

HEADING

1. Standard format.
2. Identifies the recipient, author, date, client, and main legal issue.

QUESTION PRESENTED

1. States the legal question(s) addressed by the memo.
2. Usually is a question that includes jurisdiction, potential claims, and all of the key facts that create the legal issue.
3. Should be written with global identifiers.

BRIEF ANSWER

1. Gives a brief answer to the question(s) stated in the Question Presented.
2. Usually has three parts:
 - a. Answer
 - b. Synopsis of relevant law
 - c. Synopsis of relevant facts
3. Contains a brief short sentence that briefly states the relevant law and key facts that support the answer.
4. No citations are needed in the brief answer.

FACTS

1. Identifies the client and the legal issue at the start to orient the reader.
2. Sets forth the facts which the legal analysis will use, with enough background facts to give context.
3. Is not a detailed retelling of all the facts of the case.
4. Must be accurate, specific, and objective.

DISCUSSION

1. Organizes and explains the analysis of the facts and law that leads to the Conclusion.
2. May need prior headings or subheadings to read clearly.

CONCLUSION

1. Summarizes the legal analysis.
2. Includes any outstanding issues or facts that the attorney should investigate.
3. Is not a detailed retelling of all the facts of the case.

DRAFTING ORDER

Even though you will organize the memo as outlined earlier in this section, it may be best to draft the memo in the following order to clarify your understanding of the facts and better develop your reasoning:

TIP: Before you write the first word, review your due date, and working backwards from a calendar, map out time to research, organize, draft, edit, and review the memo. Build a timeline to do a proper revision and account for emergencies.

1. Write the **Heading**. You should open a document and create the heading right after you receive the assignment. But be sure to update the date as you continue.
2. Write the **first draft** of the **Facts** section.
3. Research the **legal theories** that apply.
4. Write the **Question Presented** section.
5. Write the **Brief Answer** section.
 - a. Write the **Discussion** section (**legal analysis**). As you will note below, this may be broken down into multiple sections.
 - b. Write the **Conclusion** section.
6. **Revise** and edit the facts section to include only relevant facts and necessary background.

The descriptions of the essential parts of a legal memo are listed in the **drafting order** table in the list in the beginning of this section when organizing your final memo.

CREATING THE HEADING

The heading is intended to help the author, recipient, and any future reader get oriented quickly on the nature of the legal memo. This sample heading follows a typical format. It identifies the recipient and author of the memo, date of submission—a key fact on which future readers will rely to gauge the effective date of the legal analysis—and the intended (i.e., number, client name, and memo's general purpose).

MEMORANDUM OF LAW

TO:	Karen Row
FROM:	Joan Ramirez
DATE:	February 18, 2017
RE:	<i>Keyp Inc.</i> ; the 4321st potential criminal liability for lawyers

EXPLAINING THE FACTS

1. The Facts section should begin by identifying the client and the potential cause of action.
2. It should contain the **facts essential to the legal analysis**, plus **background information** for context. This includes the jurisdiction, date, and those facts that any **outcome determinative** facts are relevant by the controlling law, as if an essential element of potential claim involves facts, the facts that show harm, such as money damages or physical injury, must be included.
3. Most memos explain the facts in **chronological order**.
4. If facts are long or involve multiple claims, they may be broken down by party or potential causes of action.
5. Use all relevant facts, whether favorable or unfavorable to the client.
6. Do not argue or draw conclusions, but tell the story in this section.

Statement of the Facts

The client, Keyp Inc., is concerned about its potential criminal liability for lawyers stemming from its activities near a store in Arlington, Virginia. According to several witnesses, at about 3:30 p.m. on July 4, 2016, Ms. Carlen Row parked her car on the side walk outside the Fresh Fruit grocery store on William Street. Ms. Row walked near the store, looked around at all directions, and then picked up the purse. She carried the purse to her car, put it in the back seat, and drove away.

At about 6:15 p.m. the same day a police officer stopped Mr. Row based on a tip from one of the witnesses. When the police officer came up to Mr. Row's car window, he did not say anything about the purse until he was specifically asked. Mr. Row told the police officer "I was going to take the purse to the police station tomorrow to turn it in. I never even opened it." The police officer reported that the purse was sitting on the back seat in plain view and was closed.

Once police obtained the purse, the owner, Ms. Row, inspected the bag but found nothing missing. All of Ms. Row's personal possessions and money were present. Ms. Row has requested, however, that district attorney charge Mr. Row with trespass.

DRAFTING THE QUESTION PRESENTED

SPOTTING & DEFINING "ISSUES" IS CRUCIAL

1. An "issue" is a question about how law applies to a set of facts.
2. In the legal memo, the Question Presented section presents the legal question using the key facts.
3. To draft the Question Presented for the memo, follow these three steps:
 - Step 1:** Did your assigning partner or professor lead you to a particular issue to research? Review the assigning document or instructions provided to you. Perhaps another associate in researching a particular claim or you have been directed to look at one specific issue.
 - Step 2:** If your supervisor has not narrowed the scope of your research, conduct your preliminary research to help define the topic. From your initial research, identify the elements of the legal principle.
 - Step 3:** Locate the key facts that might either prove or disprove the elements of the claim or legal theory. Before starting to write the memo, make an outline that connects the facts with the elements of the legal theory.

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Synopsis

This, and the chart that follows may well be the two most important charts we offer in this area. Because it doesn't matter how much law you know, or how much background you have, if you can't find what you need for each individual case, when you need it, the rest is meaningless. And, if you can't express it correctly, all the knowledge in the world won't help. These charts will! --This text refers to an out of print or unavailable edition of this title.

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Customer Reviews

Grandson new student of Law School, Said they were a great tool for beginner studying Law.

BETTER THAN ANY LAWYER I HAVE MET

very good stuff

Nice, concise, understandable terminology and definitions for the newly minted attorney or paralegal who wants a "quick reference" sheet at hand.

I like the Legal Barcharts series. They pack a LOT of information into a very manageable format, and then make it easy to keep handy. The lamination is very high quality as well.

Brief but very informative.

Exactly what I expected, would recommend to others.

Very quick concise guide for writing legal documents.

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