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Legal Writing

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Reference Guide

Legal Writing

LAW

Best Practices for Legal Writing in the Workplace

The Objective: Legal Memo or Interoffice Memo

Lawyers are often asked to write legal memoranda. In this section, we will discuss what students must consider:

1. Is it for the lawyer's home work product?
2. Coordinates organization, issue framing, and legal analysis in a professional format
3. It is objective; it is not persuasive and does not advocate in favor of one position.

Examples in This Guide

A memo in either usually are appropriate to identify what immediately follows them:

- These are for instruction purposes—not what you actually write in a memo
- Items in [brackets] 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 introduction, 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 these parts:
 1. Answer
 2. Snapshot of relevant law
 3. Summary of analysis
 4. Conclusion of facts
5. Consists of a few short sentences that briefly state the relevant law and key facts that support the answer
6. No citations are needed in the brief answer

FACTS

1. Mentions 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 restatement 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 point headings or subheadings to read clearly
3. Mentions the legal analysis
4. Includes any outstanding issues or facts that the attorney should investigate
5. Is not a detailed restatement 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 deadline, map out time to research, organize, draft, edit, and review the memo. Build it from the top to the proper structure and timeline 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.

Tip: Write the first draft of the facts section.

2. Research legal theories that apply
3. Write the Conclusion section
4. Write the Brief Answer section

Tip: Write the Discussion section (legal analysis). As you will note below, this is the bottom-down into multiple sections.

5. Write the Conclusion section
6. Review 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 following table. Refer to 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 internal file number, client name, and memo's general purpose.

MEMORANDUM OF LAW

TO: Karen Rose
FROM: Juan Ramirez
DATE: February 18, 2007
RE: Serge Isebe, file #05201; potential uninsured liability for laundry

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 parties involved, and those that are not relevant to the analysis
3. The facts should be organized in chronological order. The facts that show how, when, and why the client was injured (e.g., physical injury), must be included
4. Most memos explain the facts in chronological order
5. If facts are being used to create multiple claims, they may be broken down by party or potential cause of action
6. Use all relevant facts, whether favorable or unfavorable to the client
7. Do not argue or draw conclusions, but tell the story in the facts

Statement of the Facts

The client, Serge Isebe, is concerned about his potential uninsured liability for laundry stemming from his actions near an off-leash dog in Arlington, Virginia. According to several witnesses, at approximately 10:30 p.m. on January 1, 2006, Mr. Carlson, whose spouse was on the ride, was walking the dog on a leash. Mr. Carlson was walking the dog when the dog walked near the purse, looked around in all directions, and then picked up the purse. He carried the purse to his car, put it in the back seat, and drove away.

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

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

DRAFTING THE QUESTION PRESENTED

SPOTTING & DEFIRMING "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 A: Did your attorney partner or professor direct you to a particular issue to research? Review the assigning direction or instructions provided to you. Perhaps another associate is researching a particular claim, or you have been directed to look at one specific topic.

Step B: If your supervisor has not narrowed the scope of your research, conduct some preliminary research to help define the topic. From your initial research, identify the elements of the legal principle.

JK: Laundry is (1) taking (2) and carrying away (3) another person's property, with (4) intent to permanently deprive that person of it.

Step C: Locate the key facts that might either prove or disprove the elements of the crime or legal theory. Before starting to write the memo, make an outline that connects the facts with the elements of the legal theory.



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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