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# Legal Writing

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American Legal Reference Guide

LAW

# Legal Writing

## Best Practices for Legal Writing in the Workplace

### The Objective: Legal Memo or Interoffice Memo

Lawyers are often asked to write according to the following standard that new students must master:

1. It is the lawyer's basic work product.
2. Contains 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 this study guide are appropriate to identify what immediately follows them:

- These are for instructional purposes—not what you actually write in a memo.
- These 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. Mentions 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:
  3. Answer
  4. Snapshot of relevant law
  5. Summary of analysis

3. Consists of a few short sentences that briefly state the relevant law and key facts that support the answer.
4. Should be written with global identifiers.
5. 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 put fact 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 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 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 it out to be as proper, efficient, and accurate for emergencies.

1. Write the Heading. You should open a document and create the heading right away once you receive the assignment, but be sure to update the date as you continue.

2. Write the First Draft of the Facts section.

3. Review the legal theories that apply.

4. Write the First Draft of the Conclusion section.

5. Write the Discussion section (legal analysis). As you will note below, this is the heaviest, most complex, and most time-consuming section.

6. Write the Conclusion section.

7. 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 at the beginning of this section when organizing your final memo.

## CREATING THE HEADING

The Heading is intended to help the author, recipient, and one 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 20, 2007  
RE: Serge Sante, the 45000, potential criminal liability for battery

## 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.
3. It should identify the parties involved in the case, and those that are outcome determinative. Facts such as the names of the parties, and the names of any third parties involved, the facts that show the parties, such as injury, damages or physical injury, must be included.
4. Most memos explain the facts in chronological order.
5. If facts are being asserted 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; tell the story in facts.

### Statement of the Facts

The client, Serge Sante, is concerned about his potential criminal liability for battery stemming from his actions near a store in Arlington, Virginia. According to several witnesses, Mr. Sante was at a gas station on I-395, near the 45000 block, on Saturday, January 20, 2007. Mr. Sante was on the side walk near the gas station, when he was approached by Ms. Rose, who was walking near the pump, looking around in all directions, and then picked up the garage door. He carried the garage door to his car, put it in the back seat, and drove away.

At about 10:30 p.m., the same police officer stopped Mr. Sante based on a tip from one of the witnesses. When the police officer came to Mr. Sante's car window, he did not say anything about the garage door he was specifically asked. Ms. Rose told the police officer that she was the party to the police station telephone to have it. I never even called it." The police officer responded that the car was sitting on the back seat in plain view and was closed.

Once police obtained the statement, the inverse, Ms. Rose, inspected the bag but found nothing missing. All of Ms. Rose's personal possessions and money were present. Ms. Rose has responded, however, that district attorney charge Ms. Rose with battery.

## DRAFTING THE QUESTION PRESENTED

### SPOTTING & DRAFTING "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 presents the legal question using the key facts.
3. To draft the Question Presented for the memo, follow these three steps:

**Step A:** For any assignment partner or professor, draft one to a particular issue to research. Review the assignment directions or instructions provided for you. Perhaps another associate is researching a particular claim, or you have been directed to look at one specific issue.

**Step B:** For 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.

**Step C:** Identify (1) the taking (2) and carrying away of (3) another person's property, with (4) intent to permanently deprive that person of it.

**Step D:** 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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