5. Tools for Legal Writing

Online Resources

It has been stressed repeatedly throughout this toolkit that those within the legal aid world have a special obligation to communicate clearly. Organizations should take advantage of the many resources, both digital and physical, for those seeking to improve their legal writing skills. In this section, readers will find information on law school writing centers, plain language software, community forums, digital style guides, and AI writing tools.

Law Schools

Law schools typically have a writing center or clinic available to students. Many of the resources provided by these centers are also available to the public and range from citation and formatting guides to books, blogs, and articles published by legal professionals. Writing centers do the work of gathering helpful information, links, and ideas into one accessible place so all that is left to do is browse!

1. University of Illinois Chicago — Writing Resource Center
2. Gallagher Law Library — University of Washington
3. Harvard Law School Library — Legal Citation Guides and Abbreviations
4. Cornell Law School — Legal Information Institute

Plain Language Software for Legal Writing

The American Bar Association (ABA) published 10 tips for better legal writing[33] in their April 2019 e-newsletter, YourABA. The article includes tips and tricks for improving legal writing, as well as a list of digital resources recommended by experts. Each resource is explained below:

1. **Wordrake.** Wordrake is an editing software designed with the legal profession in mind. Available for integration with Microsoft Work and Outlook, Wordrake checks for spelling and grammar, in addition to clarity, brevity, and Plain Language. What makes Wordrake unique is its ability to convert legal writing to Plain Language without losing necessary operative phrasing[34].
2. **BriefCatch.** Available as an add-on for Microsoft Word, BriefCatch was developed by legal author Ross Guberman as a tool for lawyers to improve their writing. BriefCatch offers users analytical scores, suggestions for improvement, and a narrative report on the strengths and weaknesses of the text.

3. **Natural Reader.** NaturalReader is a text-to-speech software that enables users to listen to a document aloud. This software is especially useful for analyzing the tone and brevity of a text. NaturalReader is available as an online application, mobile app, and Google Chrome Extension.
4. **Purdue Online Writing Lab.** Best known for its extensive guidance on citations and sourcing, the Purdue Online Writing Lab offers many free writing resources. With information on topic-specific writing styles, Purdue's writing lab is a useful tool for those in need of guidance and examples.

Community Forums

Some legal writing questions are best explained by fellow legal professionals. Take advantage of local legal communities. Check social websites like Facebook or Reddit for communities and events in the area.[35] Below are some common public forums for legal professionals to ask questions, engage in discussions, and share experiences and institutional knowledge.

Reddit

1. r/Ask_Lawyers

2. r/lawschool

Facebook Groups

1. Lawyers is a public group for lawyers— and anyone operating within the legal world— to connect, ask questions, and share ideas.
2. Let's Be Brief: community for modern legal writing is a private group for conversations and discussion related to law, technology, and writing. Members can participate in engaging discussions with other lawyers and legal aid professionals.
3. Legal Communication & Rhetoric: JALWD. Created by the Association of Legal Writing Directors (ALWD), this public forum is a place for lawyers, judges, and legal scholars to engage in discussions regarding legal writing, find resources, and make connections. In addition to community discussions, members will find articles from the Legal Communications and Rhetoric (LCR) journal.[36]

Digital Style Guides

Many style guides, blogs, and organizations stress the importance of Plain Language in public-facing content. Below is a list— which is by no means comprehensive —of some of the most widely-used style guides for English writing.

1. **The Economist Style Guide**[37]: "Clarity of writing usually follows clarity of thought." Developed by popular newspaper The Economist, this style guide walks the reader through the essence of style, American and British English, and useful references. Originally published in 1986, the Style Guide is periodically updated with tips, tricks, and best practices from those who make a living through effective communication. View the 12th edition for free here.
2. **Garner's Modern English Usage:** Written by Bryan A. Garner and published in 1998 by Oxford University Press, this style guide covers contemporary modern English. Readers will find information on appropriate word usage, commonly confused or misused words, and tips on how to limit obscurity when writing. The 4th edition of this guide—one edition behind the most recent—is available for free on the Oxford Reference website.
3. **A2J's Accessibility Guide:** Our friends at A2J have developed a comprehensive web accessibility guide. This guide is most helpful for organizations seeking to increase the accessibility of their digital environments, such as websites, blogs, and online portals. Readers will find information on Web Content Accessibility Guidelines (WCAG), website structure, Plain Language, and additional resources for both web accessibility and evaluation tools. View the toolkit here.
4. **PlainLanguage.gov**: This official resource from the United States government contains a compilation of style guides from various federal and state agencies.

AI Writing Tools[38]

In the rapidly evolving landscape of technology and legal practice, artificial intelligence (AI) writing tools are transforming the ways that lawyers and other legal professionals do their work. These technologies, powered by machine learning and natural language processing, are changing the way legal documents and other law-related documents, like client communications, are drafted and reviewed. AI tools are poised to revolutionize the traditional approaches to legal writing, from automating routine tasks to enhancing the precision and efficiency of legal analysis. Places like the Stanford Law School Legal Design Lab have created initiatives to try to harness these tools to improve access to justice.[39]

Applications in Legal Practice

The integration of AI writing tools into legal practice represents a significant leap forward in the way that legal professionals do their work. These tools likely will revolutionize the core aspects of legal research, writing, and analysis.

One of the most significant applications of AI writing tools in legal practice is the drafting of legal documents and contracts. As most legal practitioners have found, much of the drafting process of these documents uses similar formatting and language and can easily be automated. Now

instead of using document automation and fillable forms, practitioners can save time and effort by having these AI tools draft these rote documents, thereby leaving time for them to focus on the more complicated and nuanced aspects of a case.

Some AI tools, especially those developed specifically for use in law firms, are capable of generating accurate and legally sound documents.[40] Some tools can also tailor the documents to specific jurisdictions and adjust based on precise details of the case.

Additionally, the automation of routine tasks such as drafting correspondence, case summaries, and other administrative paperwork adds in more efficiency to legal practice. These tools potentially can streamline the day-to-day operations of the firm while also allowing the legal professionals to focus on client interaction and strategic thinking.

The role of AI in case prediction and legal analytics is another growth area for practitioners to monitor. By analyzing patterns and outcomes in similar cases, some AI tools can offer insights and predictions that can more efficiently aid in legal strategy and decision-making. Even if the legal aid firm is not using these tools, practitioners must be aware of their use, as private firms and other parties likely will be using the tools and lack of access to these tools may put the legal aid practitioner's clients at a disadvantage.

Ethical Considerations[41]

As AI writing tools become increasingly used in legal practice, practitioners must remain acutely aware of their ethical obligations under the Rules of Professional Conduct. The responsible use of AI in the law firm demands a careful balance between leveraging these technologies for efficiency while still preserving the core values of trust, confidentiality, and professional responsibility.

One of the primary ethical considerations is the lawyer's duty of Competence under Rule of Professional Conduct 1.1.[42] [43] Under this rule, lawyers "should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology…"[44] Lawyers are ultimately responsible for the quality of their work product, regardless of the tools they use. They must ensure that AI tools are providing correct, relevant, and up-to-date information before disseminating any materials with which they used those tools. A lawyer must understand, as much as possible, how the tools work, their limitations, and any legal standards governing their use. Lawyers must ensure that any work product produced by AI (or any assistant) accurately reflects their clients' needs and objectives.

The next essential consideration for legal professionals using AI tools to assist with writing is the duty to keep client information confidential.[45] Lawyers must review the terms and conditions, end-user license agreement (EULA), and/or privacy policy of the tool before inputting any confidential information into it. Many AI tools learn from the information provided to them and potentially could expose confidential information a practitioner puts into the tool if certain steps are not taken to prevent disclosure. Practitioners are cautioned to only use tools that provide an assurance that confidential information will not be disclosed to outside parties.

Moreover, the delegation of tasks to AI raises questions about a lawyer's supervisory obligations. Under the ABA Model Rules 5.1 and 5.3, supervisory lawyers must properly supervise non-lawyer "assistance." It is still an open question in most states whether a computer

program counts as "assistance" under this rule, but some states have indicated that AI tools might have to be supervised in a similar fashion to a legal assistant working for the lawyer.[46]

Lawyers must also be aware that AI algorithms can be biased based on the data they are trained on. Inaccuracies or biases in AI-generated outcomes can lead to misinterpretation of data, potentially harming a client's case or leading to unjust outcomes. Attorneys must, at minimum, be aware that the AI systems they use may be biased.

Data Privacy and Security

The use of AI in legal practice brings with it several data privacy[47] and security concerns which are crucial for attorneys and those they supervise to keep in mind.

Data security in the context of AI writing tools encompasses several layers including the secure storage of data, the safeguarding of data in transit, and the protection of data from unauthorized access. Law firms adopting AI technologies must implement robust cybersecurity measures, such as encryption, secure authentication protocols, and access controls, to mitigate the risk of data breaches.

A data breach of the AI tool could be very damaging to a client. AI systems often require access to large volumes of data to train and operate effectively and accurately. There is a risk that any client data that is input into certain AI systems could be accessed by unauthorized parties and disclosed without the client's permission.

Legal writers must also keep in mind that they may be subject to data protection laws (for example, the California Privacy Rights Act [CPRA]) governing their use and storage of personal data. Users of AI tools for legal writing must ensure that those tools are designed and operated in compliance with applicable laws.

Guidelines for Responsible Use

The responsible use of AI writing tools in legal practice requires adherence to a set of guidelines that make sure that these technologies enhance the legal profession ethically and effectively. As AI tools become more integrated into various aspects of legal work, establishing best practices for their use is essential to harness their potential while mitigating risks associated with their deployment.

What follows are some guidelines to consider for the responsible use of AI:

- **Transparency and Informed Consent:** Legal professionals should disclose to clients when AI tools are being used in their cases and share how these tools contribute to the work being done and the measures in place to ensure accuracy and confidentiality[48].
- **Training and Competency:** Legal professionals using AI tools should possess a foundational understanding of how AI writing tools operate as well as their capabilities and their limitations. Ongoing education and training should be required to keep up with technological advancements and ensure that legal writers can use AI tools responsibly and ethically.

- **Monitoring for Bias and Accuracy**: AI technologies can inadvertently perpetuate biases present in their training data leading to skewed or unfair outcomes. Users of these tools should assess the tools they use, seeking out those that demonstrate transparency in their algorithms and commitment to minimizing bias. Users should also be aware that the phrasing used in prompting the systems can also introduce bias and affect the outcome.
- **Professional Responsibility:** Lawyers must use AI technology responsibly and follow the professional responsibility rules of their state. This includes assuring that the use of AI does not compromise the lawyers' duties of competence, confidentiality, and of supervision.

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33 American Bar Association, "10 Tips from Legal Writing Experts," Your ABA, April 2019, https://www.americanbar.org/news/abanews/publications/youraba/2019/april-2019/10-tips-from-legal-writing-experts/. (Accessed February 2nd, 2024)

34 Key legal terms and phrases that are crucial for the legal effectiveness of a document

35 As always, the writer must ensure that any information, especially from unmoderated or lightly moderated social media groups, is accurate before proceeding.

36 Association of Legal Writing Directors, "About Legal Communication & Rhetoric: JALWD," https://www.alwd.org/aboutlcr. (Accessed February 2nd, 2024)

37 The Economist. "The Economist Style Guide." 12th ed. Published 2018. https://cdn.static-economist.com/sites/default/files/pdfs/style_guide_12.pdf.

38 See the disclaimer above. Users must be particularly wary of generative artificial intelligence (AI) tools. Generative AI tools may inadvertently integrate confidential client data into generated outputs due to the tool using the data for training. Improper use of confidential client information by generative AI poses significant risks to client privacy and confidentiality.

39 Stanford Law School. "AI & Access to Justice." https://justiceinnovation.law.stanford.edu/projects/ai-access-to-justice/.

40 This space is constantly changing and new products are being developed every day. See, for example, Amto, Latch, AI Lawyer, and PatentPal.

41 Guidelines that govern the ethical and professional behavior of lawyers

42 ABA Model Rule Of Professional Conduct 1.1 https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduc

43 Here we are citing the ABA Model Rules of Professional Conduct. Each state has its own rules that may differ from the Model Rules.

44 ABA Model Rule of Professional Conduct 1.1 cmt 8.

45 ABA Model Rule of Professional Conduct 1.6 https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduc

46 See, e.g., Proposed Advisory Opinion 24-1 Regarding Lawyers' Use of Generative Artificial Intelligence, Florida Bar, https://www.floridabar.org/the-florida-bar-news/proposed-advisory-opinion-24-1-regarding-lawyers-use-of-generative-artificial-intelligence-official-notice/

47 Involves handling, processing, storing, and securing data, particularly personal data, in compliance with applicable legal and ethical standards

48 An ethical or legal duty that involves privacy and restricts the sharing of information with unauthorized parties or individuals.

49 Authoritative commands or orders, typically from a legislative or judicial authority.

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