



Legal Editing Demystified

A Process for Polishing Your Prose

BY GINETTE CHAPMAN

You've written a brief, client memo, or other work product. What's the best strategy for ensuring the piece sparkles? This article sets forth a recommended process for editing—defined broadly to encompass both honing your writing and correcting errors. Adopting such a process will guarantee high-quality work products that powerfully advance your arguments and build your credibility and reputation. In addition to a recommended editing process, this article includes (1) a concrete example of how a disciplined editing process can improve everything you write and (2) a sample checklist for document cleanups.

The Disciplined Approach

We've all run across legal documents that are embarrassingly muddled and mistake ridden. Most lawyers learn basic principles of legal writing in law school or perhaps as entry-level attorneys. So the problem usually isn't that lawyers don't know how to write, but rather that lawyers don't adopt a systematic approach to refining their writing and eliminating errors.

Whether you're writing for a judge, a savvy client, your boss, or another audience, a careful

edit of your document is an essential—but often neglected—step. Part of being an effective advocate is ensuring that nothing detracts from the persuasiveness of your legal analysis. Your work product will be less credible if it's beset by poor grammar, typos, and the like. Worse still, writing that is convoluted, disorganized, or sloppy can obscure your message altogether.

I urge lawyers to follow a formal, multilayered editing process. By adopting a disciplined approach to editing, lawyers can hone their writing, make efficient use of time, and ensure their final work product is consistently professional and persuasive.

A Recommended Editing Process

Time is an indispensable element of the rewriting and editing process. Lawyers are notorious for cobbling together documents mere minutes before a deadline. But to craft a compelling written product, you'll need to reserve a significant block of time for multiple reads. At least once, you should review a hard copy rather than relying solely on a screen.

The editing process has several key steps: considering big-picture issues, boosting readability, improving style, ensuring consistency

(including formatting), and checking grammar and legal citations. The order in which you tackle these items is up to you, but it's most efficient to finalize organization and sentence structure before turning to formatting and grammar. Final steps often should include peer review, consulting a cleanup checklist, and reading the document aloud.

1. Big-Picture Issues

The natural first step in the editing process is to ensure your writing is organized and logical. Consider the following big-picture elements:

- **Organization:** Address the most important points first, maintain chronological order where possible, eliminate redundancies, and break up big blocks of text with headings.
- **Substantive issues:** Assess whether the document accurately characterizes the law and is clear, logical, persuasive, and internally consistent.
- **Completeness:** Make sure you've hit all the relevant questions or issues.
- **Tone:** Ensure the tone is confident, respectful, appropriately formal, and never belittling.

2. Readability

Once you've put all the pieces of your document in place, turn to improving readability:

- Give the reader a roadmap at the outset by outlining the organization of the document.
- Provide topic sentences and conclusions, as well as transitional phrases when switching gears ("Here, the facts show...").
- Break up overly long sentences and paragraphs.
- Consider using bullet points.
- Change legalese to plain English ("until now," not "heretofore").
- Remove double negatives.
- Use tense consistently, favoring present tense when in doubt ("the opinion states," not "the opinion stated"; "next, we address," not "next, we will be addressing").
- Use emphasis sparingly, and choose bold rather than underline, italics, or (horror of horrors) ALL CAPS.

- Cut unnecessary instances of *that*, but don't shrink from using *that* where it clarifies your meaning.
- Avoid alphabet soup—only use acronyms and initialisms for terms that appear often.

3. Style

Closely related to boosting readability is enlivening your writing. Strategies to apply include:

- Make passive voice active (“the court decided,” not “it was decided by the court”).
- Eliminate wordiness (“to,” not “in order to,” and “during,” not “in the course of”).
- Use varied sentence structures.
- Avoid “throat-clearing” phrases that don't add real information (“Colorado law recognizes,” not “it is well established that Colorado law recognizes”).
- Change lengthy conjunctive adverbs (*consequently, furthermore, subsequently*) to shorter conjunctive adverbs (*still, thus*) or to conjunctions (*so, but, yet, and*). And don't be afraid to start a sentence with a conjunction.
- Avoid clunky nominalizations (turning an adjective or verb into a noun) (instead of “reached a decision,” say “decided”).
- Try to avoid beginning sentences with “There are” or “It is.”
- Don't tell your reader that something is “clear” or “obvious.”

4. Consistency

Here are four ways to ensure your document is consistent:

- Refer to people, places, documents, and courts consistently (it's usually fine to use a shortened form after the first use).
- Use defined terms correctly (define a term on first reference, and then stick to using the defined term).
- Be consistent in using hyphens (and err on the side of omitting hyphens after routine prefixes, e.g., *pretrial, nonstatutory*).
- Review formatting for consistent font, line spacing, headings, indentations, and margins; remove extra spaces and paragraph breaks; and follow any applicable formatting rules or standards.

5. Grammar and Typos

Checking for grammar, typos, spelling, syntax, and punctuation is critical. Microsoft Word's spelling and grammar tool is helpful, though not entirely reliable. For example, it won't catch uses of “statue” when you mean “statute.” Some lawyers use editing software such as Grammarly or PerfectIt. Ultimately, it's important to use your own brain as part of a grammar check, referring as needed to a dictionary and a style book such as *The Redbook: A Manual on Legal Style*.

6. Legal Citations

Legal citations must appear wherever needed, must correctly represent legal authority, and must conform to *The Bluebook: A Uniform System of Citation* or other applicable manuals.

7. Peer Review

After following these steps, you should have a near-final product. This is a great time to ask an eagle-eyed colleague or a legal editor to review your work. We all have personal writing foibles, and we can become blind to deficiencies when we're immersed in a project, so a second pair of eyes is invaluable.

8. Cleanup Checklist

Once you've incorporated a peer's suggestions, it's time to consult a cleanup checklist, such as the one provided on the following page. You can tailor this checklist to your own needs. For example, if you work in environmental law, you could include a reminder about properly referring to species names. Using a cleanup checklist works best when reviewing a hard copy.

9. Read Aloud

Last but far from least, you should read the document aloud—yes, really read it out loud! When I clerked at the Colorado Supreme Court, it was standard practice for each justice's team of clerks to read aloud the justice's draft opinions before release—right down to the punctuation marks. Lawyers who have not tried this tool will be floored by how many errors they catch.

A Final Note

Congratulations! Your document should now meet the highest standards of professionalism.

EDITING SAMPLE

Original

A plea of guilty was entered by the Defendant to the aforementioned charges on May 20th, 2019 and the court reserved restitution for a period of ninety one days. Subsequently, the People filed a Motion seeking entry of an order for restitution within the statutorily-mandated period requesting that the court enter resitution of \$102,010.00 which represented the legal fees that the victim previously tendered to a law firm.

Edits

~~A plea of guilty was entered by the Defendant~~ pleaded guilty to the aforementioned charges on May 20th, 2019, and the court reserved restitution for ~~a period of ninety-one days~~. ~~Subsequently,~~ ~~the People filed a Motion~~ ~~seeking entry of an order~~ then moved for a restitution order within the statutorily-mandated period. ~~The People~~ requested that the court enter restitution of \$102,010.00, which represented the legal fees that the victim ~~previously tendered~~ paid to a law firm.

Final

Defendant pleaded guilty to the charges on May 20, 2019, and the court reserved restitution for ninety-one days. The People then moved for a restitution order within the statutorily mandated period. The People requested restitution of \$102,010, which represented the legal fees that the victim paid to a law firm.


CLEANUP CHECKLIST

- Formatting consistency and precision
 - Font—type, size, color
 - Line spacing
 - Margins, indentations, and justification
 - Headings—font, size, emphasis style, indenting, numbering scheme, capitalization
 - Bullets/numbering—bullet shape/numbering style, indenting, capitalization, punctuation
 - No widows/orphans (dangling lines or headings at the top or bottom of a page)
 - No extra breaks after paragraphs or headings
 - No awkward line breaks, such as within a date (to fix, create a non-breaking space)
 - Only one space after a period and between words (perform search for double spaces)
 - Latin terms (italicize only those terms that are italicized in *Black's*)
 - Footnotes (footnote content should be correctly formatted, and footnote numbers should be properly sized and placed outside punctuation marks)
 - Page numbers (correct numbering; appropriate font and size)
- Proper punctuation
 - No double or missing periods
 - Correct use of commas, including the Oxford comma (“apples, oranges, and bananas”)
- Commas appear after full dates
- Commas and periods are inside quotation marks; colons and semicolons are outside
- Proper use of *that* and *which* (use *that* in essential clauses without a comma; use *which* in nonessential clauses with a comma)
- Em dashes (—) are used for breaks in sentence structure, and en dashes (–) are used for number and date ranges
- Hyphens appear in phrases that modify and precede a noun (“two-year term”)
- Proper integration of quotations
- Accuracy
 - Dates
 - Figures
 - Names of people, entities, documents, etc. (and consistency in how names are used)
- Terminology sensitive to gender, race, ethnicity, etc.
- No confidential information disclosed
- Proper use of defined terms
- Numbers (e.g., spell out numbers less than 100 except for dates, money, and preceding “percent”; no ordinals for dates (“July 1,” not “July 1st”))
- No over-use of capitalized terms such as in “the Federal rules” or “the Motion”
- Complete, properly formatted legal citations
- Spelling and grammar check
- Global review for formatting slip-ups such as widows/orphans and missing material

Here are a few additional writing practices that can simplify the final editing process:

- Work from a template with set styles to improve formatting consistency.
- Configure Word to show formatting marks as you’re writing to reveal issues like extra spaces.
- Double-check each legal citation as you write it.
- Maintain (and frequently consult) a list of defined terms for your document.
- Consult readability statistics in Word periodically.
- Highlight any problematic wording as a reminder to return to it.
- Keep useful references like *The Bluebook*, *The Redbook*, *Black’s Law Dictionary*, and a thesaurus within easy reach, and use them often.

Conclusion

The recommendations here don’t exhaustively cover best practices for editing, and what works for one lawyer may not work for another. The key point is that a thoughtful approach to editing is essential for important written products—and even for informal writing, like emails to clients. Adopting a standard process will remove distracting blemishes and inconsistencies from your written product so your work can shine. 



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