

THE SUPREME COURT of OHIO
COMMISSION ON PROFESSIONALISM

PROFESSIONALISM DOs AND DON'Ts

LEGAL WRITING

A substantial part of the practice of most lawyers is conducted through the written word. Lawyers communicate with other attorneys, courts, and clients through writing. Writings introduce judges to the facts of a case, state the applicable law, and argue for a desired action or resolution to a legal dispute. The most effective legal writing is well-researched, clearly organized, logically sound, and professional in tone and appearance.

The Supreme Court of Ohio Commission on Professionalism has prepared this list of “DOs and DON’Ts” to guide lawyers in their professional writing. These points relate to many facets of attorney writing. In creating this list, the commission does not intend to regulate or to provide additional bases for discipline, but rather to help promote professionalism among Ohio’s lawyers. The list provides general categories of “DOs and DON’Ts” containing specific recommendations on form and content for specific types of writing.

LEGAL WRITING

DO

DO MAINTAIN PROPER FOCUS

- DO keep your purpose in mind while writing.
- DO tailor your writing to your primary audience, but be aware that others may read what you have written.

DO PROVIDE A CONSISTENT, COHERENT ARGUMENT

- DO research the applicable law thoroughly.
- DO investigate the facts diligently.
- DO plan and organize your writing.
- DO make sure that any legal theory you present is consistent with applicable law.
- DO use persuasive authority.
- DO state clearly what you are requesting in motions and briefs.

DO PRESENT AN HONEST, ACCURATE POSITION

- DO include all relevant facts.
- DO cite the record accurately.
- DO disclose relevant authority, including adverse controlling authority.
- DO update all cited authorities and exclude any reversed or overruled case.

DO ADOPT A CLEAR & PERSUASIVE STYLE

- DO put material facts in context.
- DO write in a professional and dignified manner.

- DO put citations at the end of a sentence.
- DO use pinpoint citations when they would be helpful.

DO PROVIDE APPROPRIATE SIGNPOSTS

- DO consider using headings and summaries.
- DO use transitions between sections that guide the reader from one argument to the next, especially in longer pieces of writing.

DO USE PRECISE ENGLISH GRAMMAR & CITATION FORM

- DO proofread for spelling and grammar.
- DO edit and redraft.
- DO cite cases and authorities accurately.
- DO use Ohio citation form (See Supreme Court of Ohio Writing Manual¹).
- DO adhere to the applicable court's technical requirements and rules for submitting documents, such as, for example, any restrictions on fonts, margins, and document length.

LEGAL WRITING

DON'T

DON'T MAKE YOUR READER'S JOB MORE DIFFICULT

- Don't use jargon or confusing acronyms.
- Don't use boilerplate without tailoring to your specific argument or case.
- Don't use string citations, unless parenthetical explanations follow.
- Don't use lengthy quotations. Break up quoted language as necessary to simplify points.
- Don't put important information in footnotes.
- Don't overuse nominalizations, i.e., noun forms of verbs (e.g., "indication" instead of "indicate").
- Don't overuse the passive voice.

DON'T MAKE INAPPROPRIATE COMMENTS

- Don't make ad hominem attacks.
- Don't use hyperbole and sarcasm.
- Don't use overly emotional arguments. Rely on logic and reason.

DON'T MISCHARACTERIZE YOUR POSITION

- Don't misrepresent.
- Don't misquote.
- Don't rely on non-record facts.
- Don't plagiarize.
- Don't lie.

