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# Legal Writing (Quickstudy: Law)

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**LEGAL WRITING**

**HOW TO WRITE A LEGAL MEMORANDUM**

**LEGAL MEMO: FOUNDATIONS OF ALL LEGAL ANALYSIS**

**SINGLE MOST IMPORTANT SKILL FOR LAW STUDENTS TO LEARN**

1. Lawyer's basic work product — it gives a legal opinion
2. Combines organization, issue framing, and legal analysis in a professional format

**EXAMPLES IN THIS CHART**

1. Issues in *italics* usually are requests to identify what immediately follows them as a first teaching purpose
2. Issues not in *italics* are things that you would have to supply, i.e. proper citations to legal authority

**SAMPLE HEADING**

This sample heading follows a typical format; the "TO" and "FROM" items identify who wrote the memo for whom; the "DATE" items give the effective date of the legal research and analysis — a key fact on which future readers will rely; the "RE" item specifies the case name, the internal file number, and the memo's general purpose.

*Memorandum of Law*

TO: Thomas Jefferson  
FROM: Patrick Henry  
DATE: September 1, 1997  
RE: *State v. Kellage*, file no. 5797; Defendant's potential criminal liability for larceny under Virginia law.

**DEFINING THE ISSUE**

**SPOTTING AND DEFINING "ISSUES" IS CRUCIAL**

1. An "issue" is a question about how law applies to a set of facts
2. In the legal memo, the issue section presents the legal question using the key facts
3. To draft the issue for the memo, follow these three steps:

**Step 1:** From your initial research, identify the elements of the legal principle.  
(Example) Larceny is (1) the taking (2) and carrying away of (3) another person's property, with (4) intent to permanently deprive that person of it.

**Step 2:** 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 matches the facts with the elements of the legal theory.  
(Example outline of elements and facts)  
factorem 1) Del. picked up purse  
factorem 2) Del. carried away purse  
factorem 3) Mrs. Harris owned purse  
Del. said he was going to turn it in  
factorem 4) Del. still had it 45 minutes later  
Del. did not tell police until asked  
Del. explained his plan to turn it in  
Purse was unopened, plainly visible in the car

**Step 3:** Write the question that the memo will answer, in one concise sentence (if possible) using the key facts that apply to the elements of the jurisdiction.

**ELEMENTS OF A LEGAL MEMORANDUM**

**HEADING**

1. Standard form
2. Identify case, date, from legal issue, writer

**ISSUE**

1. States the legal question which the memo answers
2. Usually one sentence that also mentions the key facts that underlie the legal problem

**CONCLUSION**

1. Gives the brief answer to the question stated in the issue
2. If a sentence that sets the key facts and legal points that support the answer

**FACTS**

1. Sets forth the facts which the legal analysis will use, plus enough background facts to give context
2. Not a detailed recitation of all of the facts of the case

**DISCUSSION**

1. Organizes and explains the analysis of the facts and law that leads to the Conclusion

**TIP:** Try writing the memo in this order:

- (1) Write the **Heading**
- (2) Write the **first draft of the Facts** section
- (3) Research the legal theories that apply
- (4) Write the **Issue** section
- (5) Write the **Discussion** section (legal analysis)
- (6) Write the **Conclusion** section
- (7) **Revise and trim** the Facts section to include only the relevant facts and necessary background

**EXPLAINING THE FACTS**

**ELEMENTS**

1. The Facts section should contain the facts important to the legal analysis, plus background information for context
2. In most memos, explain the facts in chronological order
3. Use all relevant facts, whether favorable or unfavorable to the client
4. Do not argue or draw conclusions; just tell the story in this section

**SAMPLE FACTS SECTION (LARCENY PROBLEM)**

"Memories are the following events at about 4:30 p.m. on July 1, 1997. Mrs. Harris's purse was on the sidewalk outside the grocery store. Defendant stood near the purse, looked around in all directions, then picked up the purse, he carried the purse to his car, put it in the back seat, and drove away."

"At about 4:15 p.m. the same day, a policeman stopped Defendant on a tip from one witness. When the policeman came up to Defendant's car window, Defendant did not say anything about the purse until he was specifically asked. Defendant then told the policeman that, "I was going to take the purse to the police station tomorrow as soon as it is 1 letter even opened."

"The policeman reported that the purse was sitting on the back seat in plain view, and was closed."

"Once the purse was in custody, Mrs. Harris inspected it but found nothing missing from its contents. Mrs. Harris suggested, however, the district attorney to charge Defendant with larceny."

**SAMPLE ISSUE SECTION**

1. *Good example* Did Defendant commit larceny under Virginia law when he picked up the shopper's purse, put it into his car and drove away, but explained that he was planning to turn the purse into the police the following day?
2. *Poor example* Did Defendant commit larceny under Virginia law? (Missing are the key facts — issue is too broad)
3. *Poor example* Did Defendant commit a crime by taking a purse that did not belong to him? (Missing are the jurisdiction, the actual legal theory, and key facts for each element)
4. *Poor example* Can a Defendant be convicted of larceny under Virginia law? (This is a different issue — the correct issue involves the particular facts of this case, not all defendants generally)

Customer Material # 1-800-230-8022  
ISBN-13 978-157222-114  
ISBN-10 157222-114

Page 1 of 2  
quickstudy.com  
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U.S. \$4.95

157222-114



## Synopsis

A "must" for getting better grades on exams. Legal writing teaches the student to think like a lawyer and write those thoughts in an orderly manner. Â

## Book Information

Series: Quickstudy: Law

Pamphlet: 4 pages

Publisher: QuickStudy; Lam Crds edition (January 25, 2001)

Language: English

ISBN-10: 1572224967

ISBN-13: 978-1572224964

Product Dimensions: 8.5 x 11 x 0.1 inches

Shipping Weight: 2.4 ounces (View shipping rates and policies)

Average Customer Review: 4.9 out of 5 starsÂ Â See all reviewsÂ (37 customer reviews)

Best Sellers Rank: #17,963 in Books (See Top 100 in Books) #5 inÂ Books > Law > Legal Education > Legal Writing #5315 inÂ Books > Reference

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BETTER THAN ANY LAWYER I HAVE MET

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Grandson new student of Law School, Said they were a great tool for beginner studying Law.

Nice, concise, understandable terminology and definitions for the newly minted attorney or paralegal who wants a "quick reference" sheet at hand.

Purchased to help with the paralegal program I'm doing. A great go to for an overview. Very happy with them!

Excellent resource. Great value!

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