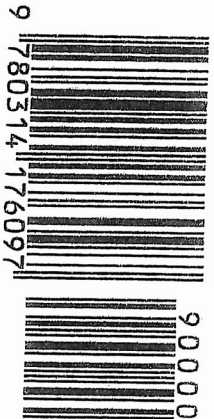


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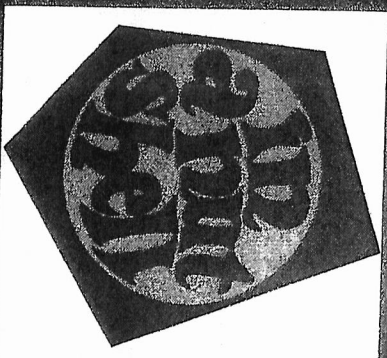


the workplace

# Excellence in the Workplace: Legal and Life Skills

KAVANAGH-NAILON

KE  
297  
K38



KAY KAVANAGH  
PAULA NAILON

THOMSON  
WEST

your reader read it for the first time as he rushes into a meeting on the topic?

**Implications for Drafting:** The context will help you determine how to organize your document, how long it should be, whether to put a summary at the beginning or end, and how the use of headings and typeface might help your reader. **Organization and format are crucial and deserve your full attention.** Your reader should be able to easily follow the organization of your document, recognize the last place he had been reading before being interrupted, and gather the salient points on a quick re-read.

Your need for this basic knowledge about **audience, purpose, and context** should inform your search for information as early as possible in your involvement with a particular project. Now we turn to the specific information you'll need to be able to do an assignment well.

## B. RECEIVING THE ASSIGNMENT

- **What is the assignment?** This is not as simple as it appears, as anyone who has worked in law for any length of time will recognize. Clarifying the assignment is often an ongoing process. Re-state your understanding at the first possible moment—either in the conversation where you receive the assignment, or, if it arrives to you in written form, shortly after receiving it.

- **What will be done with your work?** Where does the assignment fit in the big picture of the project?
- **When is it due?** Are there any interim deadlines or checkpoints?
- **Is there an approximate length (pages or time) expected?**
- **Is there an approximate number of hours you are expected to work on the project?** Bear in mind that only estimates can be provided by your assigning attorney. If the estimate of hours appears unrealistic once you have begun working on the assignment, consult with your assigning attorney. If you are logging your time to a specific project, avoid the temptation to under-report your time because you are embarrassed that it has taken you longer than expected.
- **In what form does the attorney prefer the project?** Sometimes the attorney merely wants a compilation of cases and explanations, rather than a formal memo. Find out.
- **Where can you find an effective sample of similar projects in the expected format?** Is there a paralegal, legal assistant, or secretary who can provide one?
- **How can you communicate with the attorney** if you have questions along the way—for instance, if you run across a new issue, or a roadblock?

- **Who else is familiar with the file, issues and important details?** Is there someone else who could answer some of your questions?
- **Has a file been created yet?** If so, who has it and do you have access to it?
- **Who is the client?** The adverse party or parties? What is the case or matter called? Identify the client, case, or matter on everything you do in connection with the project.
- **Find out what suggestions, if any, the supervising attorney has for you to begin your research.** Sometimes they will have suggestions; sometimes they won't.

### C. WHILE WORKING ON THE ASSIGNMENT

- **Ask for clarification** if you don't understand the assignment. Often, it is not until you actually begin working on it that you realize you don't fully understand what you've been asked to do.
- **Follow up shortly after receiving the assignment** (either orally or in writing) to get additional information that you now see you will need. Do this sooner rather than later. As always, gather your thoughts and questions before meeting with your supervising attorney, especially if it is difficult to find time with her.

- **Organize your thoughts** before beginning to research or write. Formulate the issue or issues so that you have a plan before you begin. Your formulation of the issue may change, but begin with some articulation. (See Chapter 12 for more on research.)
- If you are unfamiliar with the area, **begin with a treatise** or other secondary source to obtain an overview of the field. Don't overlook the possibility that a *person* may be your best initial research resource—a librarian, a fellow attorney, a paralegal, or colleagues in the same field whom you know from other contexts. Before leaving for the summer or after graduation, check with your law school library to see what kind of reference services might be available to you.
- **Keep an accurate research log** and update all research before submitting your final work.

### D. IN WRITING YOUR MEMO, REMEMBER TO

- **Organize your memorandum** so that it is most helpful to your reader. Review the assignment and purpose for which it will be used. **If a specific question was asked, answer it early in the memo** and then give your reasons for the answer.

- **Assume that your reader is very busy,** and does not have much time to read. At the end of your document, include a quick summary of your conclusions with very brief reasons.
- **Assume that your reader will be interrupted while reading your memorandum.** Use headings, frequent paragraph breaks, and use topic sentences and transitions to help your reader stay organized.
- **Make your recommendation up front, give your reasons,** and describe the counter arguments. If you are asked to do so, you may be uncomfortable making recommendations about resolution of the matter. Your assigning attorney will be able to evaluate your recommendations based on your reasoning and your discussion of the supporting authority for your conclusion.
- **Don't assume that your reader (even your assigning attorney) will know the law or the facts.** At a minimum, summarize the facts briefly. Attorneys work on many projects at any given time, are often much too busy to do legal research themselves, and rely on you to point them in the right direction. Often, you will be the first line of legal knowledge on the particular issue being researched—that is why you are being asked to research the case.

- **Provide sufficient information about the facts, holding, and reasoning of cases, so that the reader can judge your conclusions independently.** Don't make your reader accept your conclusions or interpretations of cases on faith. Consider attaching key cases, highlighted, to your final memorandum, if this is appropriate in your workplace.
- **Make sure that you have fully and accurately described the relevant facts, both favorable and unfavorable to your client.** Assume (because it is often true) that you are the person who is in charge of quality control of the details of your document. You are the person responsible for checking that the facts you describe can be demonstrated to be true.
- **Proofread your document.** Do not rely on spell check as a proofreading substitute. Read your document as if you were a new reader, not the writer. Where possible, ask a colleague to read the document as well and provide comments. **If you are using stock motions or forms,** as is the case in some offices that file an enormous volume of relatively routine documents, be sure that all facts are accurate, that all references are to the case you are working on, and that your document refers completely and accurately to your case, and not some other case.

- Do not assume that the assigning attorney is the only person who will read your memorandum. Other attorneys, future law clerks, and perhaps clients or others may read it, in connection with this or in connection with another matter with similar legal issues. Your discussion of the facts and law must be clear to someone unfamiliar with your case.
- Communicate with your assigning attorneys on your progress on their matters and deadlines, especially if they are unaware of other projects on which you are working.
- Keep a folder of your writing projects for future reference, for writing samples, to review feedback obtained, and to develop a sense of your work product over time.

**PROJECT ASSIGNMENT CHECKLIST**

Date: \_\_\_\_\_ Project: \_\_\_\_\_

Assigning Attorney: \_\_\_\_\_ Phone/e-mail: \_\_\_\_\_

Others Working on Project: \_\_\_\_\_

Format Requested: \_\_\_\_\_ Due: \_\_\_\_\_

How will document be used? Particular sections of document to be emphasized? Who is the audience?  
\_\_\_\_\_  
\_\_\_\_\_

Interim Deadlines: \_\_\_\_\_  
CLIENT: \_\_\_\_\_ File (or Billing #): \_\_\_\_\_

Location of file (if relevant): \_\_\_\_\_

(Adverse and Other Potential) Parties: \_\_\_\_\_

Other Actors: \_\_\_\_\_  
ISSUE: \_\_\_\_\_

FACTS: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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