

STYLE GUIDE

fall 2019

 **CYBERLAW CLINIC**

HARVARD LAW SCHOOL | BERKMAN KLEIN CENTER FOR INTERNET & SOCIETY

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1. INTRODUCTION

Your work at the Cyberlaw Clinic will differ from the other work you do for law school credit in a number of ways; perhaps most significantly, it will be attributable not just to you, but to the Clinic as a whole. Because it's important the Clinic's work product be consistent, the written work of Clinic students and staff alike is shaped by a common set of rules: this Style Guide.

Why, you might find yourself asking, have all these picky rules, when the value of a lawyer's work is in the substance of their writing, their brilliant arguments and exhaustive research? The answer lies in the "fundamental attribution error," a characteristic of human thinking which has likely been with us since the beginning, but was given a name in the 1970s by a social psychologist. It is the observation that when other people evaluate us, they tend to ascribe our behavior to innate characteristics. (By contrast, when we evaluate ourselves, we tend to look to external factors to explain what went wrong – I was late to our meeting because of traffic, not because I'm disorganized.) For writing, this means that when someone – a colleague or client – picks up a piece of your writing and begins to read, they're immediately drawing conclusions about who you are.

If that piece of writing is well organized, coherently formatted, and typo free, they are encouraged to reach a conclusion that you are a thoughtful professional who's invested an appropriate amount of time in this work product. If, by contrast, they're met on the first page with a jumble of fonts, an assortment of citation formats, and a couple of spelling errors, then before they even get through the opening salvo of your brilliant argument, they have drawn the conclusion that you're sloppy, uninvested, and maybe even ignorant of some basic rules of writing in English. The conclusions they've drawn from the style of your document will color how they interpret its substance. The conclusions they draw about you will color how they think about the Clinic as well.

The good news is that, with a little attention to detail, it's relatively easy to make the fundamental attribution error work for us, rather than against us. This Guide is designed as your roadmap to making that happen. It provides general principles, required document-level formatting and structure, paragraph- and sentence-level rules, and guidance on some particular types

of writing, like email. Note that this Guide is only loosely applicable to writing for courts that have their own style rules and contracts, which are a special case. When writing for a court filing, please see Section 7.2. Until this Guide contains a section on contracts, you are encouraged to apply its spirit when drafting agreements, and to approach your supervisor with questions about any particulars it doesn't address.

2. GENERAL TIPS

We begin with a few organizing principles of general advice, drawn from our particular experience working with law students in a clinical setting:

2.1. Be consistent

This is the one rule to rule them all. It means being attentive to the requirements of this Style Guide, and assiduous in their application, but it's especially important when it comes to the (many) things this Guide does not cover. If we haven't given you a rule, choose one that suits your work product and use it throughout. For example, if you capitalize one defined term, capitalize all of them, and if you address the reader using the second person in one section, don't refer to them in the third person later in the same document. Consistency is a baseline requirement for professional work product.

2.2. Use the templates and the Styles feature

We have created a set of Microsoft Word templates which have many of the rules in this Style Guide built in, including font, margins, headers and footers, numbering, and more. They use the Styles feature, which you should familiarize yourself with for the sake of ease, efficiency, and consistency (see above).¹ The templates are available on the Student Dashboard page of the Clinic's Canvas site.

¹ If you're wondering *why* you should use Styles, see <https://legalofficeguru.com/6-best-reasons-use-styles/>; if you're wondering *how*, see <https://support.office.com/en-us/article/customize-or-create-new-styles-in-word-d38d6e47-f6fc-48eb-a607-1eb120dec563>

2.3. Consider your audience

Students in Clinic produce an incredible variety of writing, from public-facing white papers, to memos for sophisticated clients' general counsels, to emails of advice aimed at an individual who's experiencing their legal issue as much personally as professionally. Writing that would be excellent in one of these contexts might be a disaster in another. Before you put fingers to keys (or pen to paper, if that's your thing), take a moment to think about who your audience is, and the context in which they are likely to review your work. Whoever they are, let them be the key influence on the work you produce.

2.4. Strive for clarity

This point might seem obvious, but a lot of us leave 1L with heads full of the language of antiquated caselaw, thinking at some subconscious level that "real lawyers" write sentences that take half an hour to parse. Moreover, we're often struggling to articulate complex concepts, and to apply them to slippery, shifting facts. Clarity is *hard*. To get there, you will need to push yourself to refine your thinking, articulate your (and the client's) priorities, and beat back those antiquarian instincts to add a "hereinafter" or two.

2.5. Get right to the point

Lead with your conclusion. Your readers are busy people, and (unfortunately) you can't rely on them to read your writing with the same thoroughness you put into creating it, so you have to get your most important ideas into the foreground. If you've succeeded, your reader will be able to summarize your argument almost as well after reading your opening sentence (or, in the case of a longer work, the introduction) as they will after digesting the whole document. This concept is related to our point about overdrafting, below: it often helps to write out a first draft, then rearrange it to begin where you'd originally ended.

2.6. Begin by overdrafting

Your first draft is not your final work product: every single piece of written work goes through an editing process (even if it's just you at your laptop, tweaking a word here or there). This advice is important for a couple of reasons. First, if your goal is to be comprehensive, it's easier to spot and

address underdeveloped areas in your research or thinking. Second, when editing, it's much easier to cut material than it is to backfill what's missing. This is especially true when you are working on a team, and the person editing might not be the same person who conducted the original research.

2.7. Always run spell check – but don't stop there

There's no reason to let a document go out the door without running a quick spell check in your word processing program. It doesn't take long, and – well, see our discussion of the fundamental attribution error in the Introduction. However, you also need to give your text a patient read through, over and above what the software can do. Spell check is unlikely to tell you if you're written "affect" where you meant "effect," or "reign in" when the phrase is "rein in" (as you would a horse).² Furthermore, there are concerns specific to legal work product, especially more substantial work product: defined terms and section references. It is crucial to check the consistency and accuracy of your defined terms and section references before your document goes out. For detailed instructions, see Appendix A.

² For that matter, it might have been "principal" for "principle" or the erroneous "pour over" (if it's not coffee, it should be "pore over"). And just to round out the palette (*not* "palate"!), do double check that you haven't "flushed out" an argument – these things, properly, are "fleshed out."

3. THE EDITING AND PROOFREADING PROCESS

The nature of work in the Cyberlaw Clinic means that most documents go through an iterative process of revision and editing. That process starts with each of us sitting with the written work we've produced, and self-editing. Self-editing is hard for us all. It's hard to build in the time for it. It's hard to keep sitting with material we've already worked through, which might be starting to grate on us. It's hard to confront our own imperfections, and see how we might improve. Self-editing is also hard because of how our brains are wired.

Perhaps on the internet somewhere you've come across a paragraph that started, "If You Can Raed Tihs, You Msut Be Raelly Smrat." There's reason to quibble with the assertion that the order of letters has no impact on our ability to make sense of words,³ but the jumbled text illustrates something important about how our brains process writing: most of us read for content and naturally gloss over errors. If you want your brain to spot tiny mistakes – a comma here, a capitalization there – you have to deliberately create opportunities for it. Some editors read very slowly. Some read backwards. Others find it helpful to read out loud. You likely already have your own habit, honed over dozens of final papers and important emails: ramp it up, or try building a new one.

In addition to self-editing, most written Clinic work also undergoes collaborative editing. Over multiple passes with teammates, supervisors, and even clients, a document evolves until everyone is satisfied. Word processing software and cloud editing have made this process considerably less painful than it once was. When you edit a document, we recommend using MS Word's "Track Changes" feature, or the "Suggesting" mode in Google Drive, so that others can review your changes. If it happens that you forget to turn on Track Changes or Suggesting, or you receive an edited document in which the changes are not apparent, MS Word has a tool to create a so-called "redline," or a document that shows the changes. See Appendix B for instructions on how (and when) to use it. It is also helpful to use the comment function to note macro concerns and general suggestions, ask questions, or explain a particular change. Reviewing changes and

³ <https://www.mrc-cbu.cam.ac.uk/people/matt.davis/cmabridge/>

comments is an opportunity for learning and reflection as well as a chance to accept or reject particular decisions.

Occasionally it may be necessary to do a hand mark-up of a document, such as when you're sitting with a hard copy in a meeting. In those circumstances, please use the standard proofreader's marks from the Chicago Manual of Style⁴ to ensure that you make your intentions clear to the person inputting your changes. It may also be useful to refer to the standard marks if your Clinic supervisor ever gives you a hand markup, as they are likely to have used them.

4. FURTHER READING

For general advice on good writing, we warmly invite you to pick up a copy of Strunk and White's *The Elements of Style*, especially if you haven't encountered it before, or if it's been awhile. It's a tiny book, but powerful: for example, Stephen King's book *On Writing: A Memoir of the Craft* is, between childhood memories and some really good quotations, pretty much a love letter to good old Strunk and White. Its key lessons – “use the active voice,” “omit needless words” – are likely to follow you through the years.

For specific advice on stylistic matters not addressed in this Style Guide, we recommend the following resources:

Typography. Butterick's Practical Typography, <https://practicaltypography.com/>

Usage. Chicago Manual of Style, <https://www.chicagomanualofstyle.org> or hard copy available in the Clinic office

Citation. Bluebook, hard copy available in the Clinic office

⁴ <http://www.chicagomanualofstyle.org/help-tools/proofreading-marks.html>

5. STYLE RULES

5.1. Document-level

5.1.1. Cyberlaw Clinic logo

Final work product that is going out to clients or the public in hard copy, .doc, or .pdf format (i.e., not in the body of an email) should be on Clinic letterhead. The letterhead is available in the templates on the Student Dashboard page of the Clinic Canvas site. For any other use of the Clinic's logo, please consult with your supervisor.

5.1.2. Confidentiality notice

Every page of Clinic client work product should contain the following confidentiality and work product notice in the center of the header, in 12 points font:

Privileged & Confidential
Attorney Work Product

Note that this notice should be applied even to the earliest drafts of client-confidential materials. Non-confidential materials, such as public education documents, do not require this notice.

5.1.3. Cover page

For confidentiality reasons, all but the briefest and most casual memoranda should be formatted with a cover page which includes the names of the parties to whom the document is addressed, the names of its authors, and cc's, the date, the subject, and the privilege/confidentiality notice, but no other content.

5.1.4. Paper size

Please format your documents for letter-size paper. Note that if you have worked outside of the U.S., you may need to shift your default formatting.

5.1.5. Margins

The Clinic uses slightly wider-than standard left and right margins, in order to optimize line width for reading and provide readers with space for notes. Left and right margins should be set to 1.5 inches; top and bottom to 1 inch.

5.1.6. Font and point size

The standard font for Clinic documents is Constantia in 12 point size. Headers should be in the same font size. Constantia is pre-loaded in Microsoft Word and available in Google Drive in the “Add more fonts” menu.

5.1.7. Number of spaces between sentences

At the end of a sentence, following the terminal punctuation mark (period, question mark, exclamation point – or might you consider an interrobang?) there should be one space.⁵

5.1.8. Line spacing

Set line spacing of normal text in a 12 point font to 14 points exactly. The single- and double-spacing features of common word processing programs space lines either too narrowly or too widely, which interferes with readability.

5.1.9. Paragraph spacing and alignment

The first line of each paragraph should start on the left margin (do not indent). Between standard paragraphs, there should be a single carriage

⁵ You may have learned, at some point, to put two spaces after a period, but among typesetting professionals, there is near-absolute consensus on the one-space rule we follow at the Clinic. The twentieth-century convention of putting two spaces after a period is an artifact of the manual typewriter: manual typewriters used monospaced fonts, so that a skinny letter like “i” was accorded the same amount of space as a wide letter like “m.” There’s a lot of extra white space in monospaced fonts, which can make them hard to read. (To see an example of a monospaced font on your computer screen, use Courier.) Adding an extra space after each sentence was thought to help with readability. This Guide calls for the use of a proportionally spaced font (Constantia), so there is no reason to add an extra space at the end of each sentence.

return of 14 points. (Note that in the templates, this spacing is built in and does not require an extra return.) Text should be left-aligned, not justified.

5.1.10. Page numbering

Use Arabic numerals beginning with 1, in the format “# of #” in the center of the footer. Do not display the page number on the first page (which in most documents will be the cover page).

5.1.11. Page breaks

Only the longest and most complex documents require page breaks after individual sections. However, all documents should be reviewed to ensure that the text is breaking across pages in a way that does not interfere with readability. For example:

- Control for “widows” and “orphans,” meaning that a single line of a paragraph (first or last) should not appear by itself on a page. There should be 2 lines of the paragraph at a minimum.
- Ensure that headers appear on the same page as, at a minimum, the first 2 lines of the first paragraph of text under that header. Push to the next page if necessary.
- Check that page breaks are otherwise rational and appropriate.

5.1.12. Document saving norms

When saving your document, include the title (with a sufficient level of detail to distinguish your document from other work product for that client); the initials of people who worked on the draft in question, if relevant; and the date. Please use the format YR-MO-DA, e.g. 18-09-04.

5.2. Organization and Citation

5.2.1. Section numbering

The Clinic uses decimal numbering (1, 1.1, 1.1.1, 1.1.1.1 etc.) for sections rather than traditional outline numbering (A, I, a, i, etc.). Decimal numbering is more transparent about outline level, and thus less confusing for readers.

5.2.2. Heading styles

Headings are left-justified, and may optionally bleed off the left margin -0.1 inches, which makes them easier to spot. Headers of all levels should have a single carriage return of 14 points before and after. (Note that in the templates, this spacing is built in and does not require an extra return.) The following character formatting should be applied to each level:

HEADING 1: BOLD CAPITALS

Heading 2: Bold Title Case

Heading 3: Roman

Heading 4: Italic

5.2.3. Subparagraphs

If you are writing in a numbered or bulleted format, no paragraph should have only one subparagraph. Instead, integrate the content of that subparagraph into its parent paragraph. For example, in the following outline, subparagraph 2.1 should be eliminated, and the discussion of Subtopic X merged into the body of paragraph 2, where Topic A is discussed:

1. INTRODUCTION

2. TOPIC A

~~2.1 Subtopic X~~

3. TOPIC B

3.1 Subtopic Y

3.2 Subtopic Z

5.2.4. Paragraph numbering

We do not number paragraphs except as externally required (for example, in a court filing).

5.2.5. Citation

We prefer the use of footnotes to either inline citations or endnotes in most Clinic documents, with the exception of court filings or as otherwise externally required. Footnotes should be formatted in 10 point Constantia.

6. WORD CHOICE

6.1.1. Abbreviations

Most clinic work product is formal writing in which abbreviations, including characters like the ampersand, are not appropriate unless part of a proper name (e.g. corporate names like Smith & Co.).

6.1.2. Oxford comma

Because legal writing requires precision, it is Clinic style to use the Oxford or serial comma (e.g. “eats, shoots, and leaves” not “eats, shoots and leaves”).

6.1.3. And/or

Whenever possible, avoid the use of the construction “and/or.” It is almost always unnecessary: one conjunction *or* the other will do the trick.

6.1.4. Gender-neutral language

When referring to an unknown or indefinite individual, use gender-neutral language. The pronouns “they” and “them” are appropriate both for singular and plural uses. Similarly, in a casual context, “folks” is a gender-neutral alternative to “guys.” When referring to a particular individual, use the pronouns they prefer.

6.1.5. Archaic words and legal jargon

In general, it should not be necessary to use archaisms or legalese in your writing for the Clinic. If you are aiming for clarity, per our advice in the General Tips above, you will naturally find yourself avoiding this type of language in favor of “plain English.” There are exceptions to this rule (for instance, sometimes the end goal of clarity is best served by quoting directly from jargon-filled case law or statutory language, rather than paraphrasing), so apply it with discretion. Before you include an archaic word or a bit of jargon, consider simpler alternatives and select the clearest option.

6.1.6. Shall vs. will

Shall and will are closely related verbs, nearly (though not quite) synonymous. You should use the one more appropriate to the tone, content, and context of your work product. Between the two, “shall” is the more formal and stringent option – Merriam-Webster defines it as being “used in laws, regulations, or directives to express what is mandatory.”⁶ “Will” is more common and can also be used to indicate a command, but since it is sometimes used in similar constructions to indicate an activity that is merely habitual or volitional, may not be interpreted as absolute. Whichever choice you make, be sure to implement it consistently, in keeping with the General Tips above.

⁶ <https://www.merriam-webster.com/dictionary/shall>

7. SPECIAL CASES

7.1. Email

Email has revolutionized most attorneys' (and for that matter most office workers') professional lives, to the point that, thirty years in, it's hard to imagine exactly how anything got done without it. Our norms around what makes for good writing in an email context are still catching up. Part of the reason norms have been slow to evolve is that, even limiting ourselves to the work context, email is such a varied medium. Sometimes, it's a simple manner of scheduling, and we might care less about whether the response is a complete sentence than whether it was sent promptly. Other times – perhaps the very next time you sit down to compose – an email is the modern equivalent of what would have been a formal legal memo, summarizing the question presented, facts, legal research, and client advice. You will inevitably have to exercise your best judgment in crafting emails that are appropriate to the context you're working in, but the following rules articulate some important parameters for writing in this medium.

7.1.1. Make your subject line:

7.1.1.1. *Unique*

When you write the subject line of your email, choose one that is uniquely appropriate to the email you are drafting. For example, if you are sending notes about a potential client intake conversation with Jane Doe, a good subject would be, "Jane Doe Intake Notes." Some examples of inadequate alternatives: "Jane Doe," "Intake Notes," "Follow up on intake," "My notes" – or, worse yet, merely replying to an existing email on a tangentially related topic, leaving the subject (e.g. "Re: Scheduling Doe Call for September") intact. Using a unique subject helps recipients battle inbox overload and locate your messages when they want to refer to them later.

7.1.1.2. *Reflect urgency or upcoming deadlines*

If the body of your email contains urgent information or a notice of an upcoming deadline, highlight that in the subject so your recipients can prioritize appropriately.

7.1.2. Flag sensitive or confidential content

If an email contains sensitive information, including client-confidential and especially attorney-client privileged information, say so in the subject line, e.g. “[Confidential] Draft response to cease and desist”. These reminders are helpful because email is often more public than we imagine. It’s very easy to thoughtlessly forward or add folks to the cc field, and moreover, we are so often reading email in public places where our screens could be visible, or using the device on which it’s loaded to present or otherwise share information with others.

7.1.3. Impose structure

Using a stream-of-consciousness structure for your emails is fine when you’re corresponding with a friend, but professional emails need to be organized like any other piece of professional writing. *Begin with your conclusion or big ask*, then follow with a (brief, see below) summation of your thinking or other relevant details. Make your paragraphs shorter than you would in other contexts, perhaps two sentences each. Use bullets to visually organize a longer list of points.

7.1.4. Include any necessary context

Rather than rely on your readers’ access to the email chain that’s preceded your message, you should always include the necessary context in the message itself. This is a miniature version of the “question presented” and “facts” sections of a traditional legal memo. It ensures that your work will still be comprehensible if it’s forwarded on to others or pulled from the client file years later.⁷

7.1.5. Be brief

Concision is key to all good legal writing, and it has taken on special importance in email, now that so many people read email on mobile devices. A phone screen shows about 200 words at a time – make 200 words or less your goal. If you’re working on a more complex topic and you can’t

⁷http://www.abajournal.com/magazine/article/clarity_context_email_legal_questions

say what you need to in under 500 words, consider shifting to a memo format.

7.1.6. Highlight key phrases or sentences in bold or italic text

Make canny use of formatting to focus your readers' attention on the key takeaways or action items. Examples of categories of information you might consider emphasizing include main pieces of advice, follow-up questions, and next steps. However, moderation is key: plan to highlight a maximum of three items (or, in a short email, even fewer), focusing on the most crucial.

7.1.7. Use exclamation points judiciously

Email can be a cold medium, and like pointy little space heaters, exclamation points help introduce warmth. Use too many, however, and you can come across as chirpy and unserious. One per email is a good rule of thumb.

7.1.8. Spell it out

In Clinic emails, we expect you to avoid texting shorthand (e.g. “4” in place of “for”) and emojis.

7.1.9. Say what comes next

Think through and include next steps or action items in every email. These will vary depending on the content and type of email, but might include anticipating feedback by reply email (consider setting an expected time frame for this), scheduling a call, or moving on to the next phase of the project. If you're not sure what the next steps are, either suggest a best course of action, or at a minimum, note that next steps are unclear and ask your recipients for their input. In rare cases, where an email is functioning as a memo to file, there may be no next steps, and you can note that.

7.1.10. Rationalize attachments

If your email includes attachments, reference (and as necessary, explain) them in the body of the email. Consider changing the file names so that they can be more clearly understood and easily located by recipients: for example, we would not commonly include “Cyberlaw Clinic” as part of a file

name when developing a document internally, but it might be appropriate to add to the version send to the client over email.

7.1.11. If you want to include pleasantries, do so at the end

Building relationships is a key part of work and life, and it's appropriate to include some informal content in many work emails. While people frequently start emails this way ("Dear so-and-so, I hope this email finds you well..."), pleasantries inserted before the meat of the email often come across as pro forma or even disingenuous. However, placed at the end, after the priority content, they can provide a graceful transition and almost always seem more sincere.

7.2. Writing for Courts

While at the Cyberlaw Clinic, you may be asked to draft a court filing, such as a motion or brief. Court filings are subject to special content and formatting requirements that are dictated by the state and federal judiciaries, courts, and individual judges. Compliance with these requirements is crucial: non-conforming filings may be rejected and, even if accepted, will often be reviewed less favorably.

7.2.1. Applicable rules

When writing for a court, you should first review all the applicable rules. The content and formatting requirements in those rules override anything in this style guide. There are three sets of rules you should look for:

7.2.1.1. *State and federal rules*

Each state, as well as the federal government, has rules of Civil, Criminal, and Appellate procedure. These rules provide the most general requirements in terms of the form, content, and timing of filings. You can find these rules on Lexis or Westlaw.

7.2.1.2. *Local rules*

Most courts have set of local rules that expand on the relevant state or federal rules. Local rules frequently specify formatting requirements, including but not limited to word or page limits, page layout, font size, and line spacing. You can find a court's Local Rules on the court's website.

7.2.1.3. *Individual rules*

Some judges have individual preferences that are more detailed than their local rules. A judge's individual preferences will usually be listed in their profile on the relevant court's website. Not all judges post their preferences; if you're writing for a judge who does not, follow the local rules.

7.2.2. Paper size

If the applicable rules do not specify a page layout, set all margins to 1 inch. The cover page of the filing, if any, should be unnumbered. For the Table of Contents and Table of Authorities, if any, use lowercase Roman numerals beginning with "i" in the center of the footer. For the remainder of the filing, use Arabic numerals beginning with "1" in the center of the footer. For appendices, use the format "A-1," where A is the letter of the appendix.

7.2.3. Font and point size

Local rules will usually specify a font type and size. If the court permits proportionally spaced fonts, use Constantia in the point size specified. If no size is specified, use 12 point font. If the court requires a monospaced font that does not exceed 10.5 characters per inch, use 12 point Courier New.

7.2.4. Line spacing

Many courts require filings to be double-spaced. If so, do not use Word's automatic double spacing, as this will actually lead to greater than double spacing. Instead, set the spacing of your paragraphs to be exactly twice the point size of the font used.

7.2.5. Page numbering

The cover page of the filing, if any, should be unnumbered. For the Table of Contents and Table of Authorities, if any, use lowercase Roman numerals beginning with i in the center of the footer. For the remainder of the filing, use Arabic numerals beginning with 1 in the center of the footer. For appendices, use the format A-1 where A is the letter of the appendix.

7.2.6. Citations

All citations should be inline and in the format specified in the “Bluepages” of the Bluebook. Do not use footnotes or endnotes for citations.

7.2.7. Footnotes

Footnotes should be in the same font and point size as the body of the text.

APPENDIX A: HOW TO CHECK DEFINED TERMS AND SECTION REFERENCES

When you are in the final drafting stages on a substantial piece of work product such as a memo or an agreement, it is essential to be sure that the section references and defined terms are used consistently and accurately. This ensures that the hard, substantive work you did is reflected in the details of the document, and minimizes the likelihood of confusion on the part of later readers. Furthermore, mistakes can be costly for clients, for example when section references are used to specify which paragraphs of an agreement will survive termination, or to highlight the parts of a memo detailing the most significant legal risks. Future employers will expect you to be on top of these details, so it's worth developing good habits now.

We strongly suggest you devote a few minutes to systematic defined terms and section reference checks, separate from reading through your work for other types of errors. While it's possible to catch mistakes in defined terms and section references when you're doing a general edit, it's also all too easy to let them slip by. What follows are suggested procedures.

1. Defined terms

A defined terms check is meant to confirm a set of related points: (1) all defined terms are defined correctly; (2) the definition is given just once, the first time the term is used; (3) no unnecessary terms have been defined (e.g. every defined term is used at least twice); and (4) the formatting of all terms and definitions is consistent.

To conduct a defined terms check:

- First pass through the document: look for *definitions*
 - In a separate file (or on a piece of paper), make a list of each term that is defined
 - Check that the definitions are formatted consistently, e.g. use of quotes, bold type, and parentheses
- Second pass through the document: look for *uses of defined terms*
 - When you find a term used apart from its definition, check it off the list you made during your first pass

- Check that the terms are formatted consistently, e.g. use of bold type and capitalization
- If a term is used before it is defined, either:
 - Move the definition to the first use of the term, or
 - If due to complexity of construction or other constraints, it cannot appear there, include a reference to the location of the definition (e.g. “(as defined in Section I(A)(i))”)
- Check the accuracy of the definition against each use of the term: if you read the definition into the sentence in place of the term, would it still make sense?
- Finally, review your list of terms
 - If there are any terms on your first-pass list that you did not check off during your second pass, you’ll know that defined term was unused and unnecessary – go through the document and delete those definitions
 - If there are two or more terms used to refer to the same thing (common when multiple folks have had a hand in drafting a document), consolidate them

2. Section references

The objective of a section reference check is to ensure that all internal references in the document are accurate. References are sometimes input inaccurately, but more commonly, they were accurate when entered, but content moved from one section to another during many consecutive rounds of editing.

To conduct a section reference check:

- First pass through the document: look at *outline numbering* and *headers*⁸
 - Check that the numbering system is starts at the right number and is contiguous

⁸ If you have used the full capabilities of your word processing program, your numbering and header formats should be consistent, but it is always worth double-checking.

- Check that the formatting of the headers is consistent and appropriate to the level of header
- Fix inconsistencies as you find them
- Second pass through the document: look for *internal references*
 - Watch for terms like “section,” “subsection,” and “paragraph,” but also places where a section number like “II(d)”) or name like “Executive Summary” appears without such a designation
 - Check for consistency in style of reference (phrasing and formatting)
 - Read the surrounding text to familiarize yourself with the substance, and then go to the referenced section and read it – ask yourself if:
 - the reference makes sense, and
 - there are any other sections of the document that should also be referenced

APPENDIX B: USING REDLINES

1. What is a redline?

A redline shows a comparison of two versions of a document to illustrate what changes have been made. Seeing such a comparison is incredibly useful in the practice of law: it facilitates the review of changes, both internal and external, and supports attorney learning.

2. When to send a redline

2.1 When you are collaborating internally on a document

Redlines are very helpful when you are editing asynchronously (that is, each team member working on their own version of a document, rather than Google Drive-style synchronously editing the same document).

Every time you share changes you have made, the best practice is to attach both a clean version of the document (i.e., showing no tracked changes) as well as a redline that shows compares your document to the most recent preceding version (i.e., showing only the changes you made).

If there is a preceding version of the document that is an important reference point (for example, the base template you are working from), it is sometimes helpful to provide an additional redline that compares your document to the reference point, ignoring interim changes. Sometimes this is called a “cumulative” redline.

2.2 To “clean up” tracked changes.

When many people have been making changes to a document over time, it becomes hard to decipher. A redline that compares the current version to the original may be more easily digestible.

When you’re sending a document to a counterparty, it’s more professional to run a redline attributing all changes to the “Cyberlaw Clinic” than to send a Word doc with tracked changes made by various individuals, identifiable or not.

2.3 When we receive a new draft from a counterparty

If we are trading drafts of a document with a counterparty, we will run a redline of their new version against what we last sent them, even if they included their own redline. This way we can confirm nothing has been overlooked, either inadvertently or deliberately.

3. How to create (“run”) a redline

Many law firms have specialized software to run redlines, but MS Word has a built-in redline function that works well in most circumstances. Here’s how to use it, with some practice pointers:

- Open both the revised (new) document and the original (base) document on your computer. If you’ve been working on the revised document recently, make sure your changes are saved.
- From the Review menu, click the Compare button, and then select Compare again. In the pop-up, use the drop-down lists to select your original and revised documents. (If the file names are long, it may be hard to distinguish your documents; hover your cursor over them to see the complete name.)
- Below the name of the revised document drop down list, type in the name to which the changes should be attributed (e.g. your name or “Cyberlaw Clinic”).
- Click “Compare.” If you get a pop-up noting that one or both documents contain track changes, click “Yes” to continue with the comparison.
- Save the resulting redline with a clear filename (e.g. “[Name of revised file]-[Initials]-[Date] changes.docx”).
- Review your redline in detail to ensure it looks right before sending it out.
 - MS Word automatically includes all comments from both documents, even where they were deleted in the revised document, so you may need to go through and manually delete comments that have been resolved.
 - Word can pick up formatting oddities that are not real changes; if these are distracting, you can use the “Accept change” function to make them disappear.