

3. The student was an excellent writer but she did not proofread her brief before submitting it to a prospective employer.
4. The landlord installed smoke detectors and, repaired the broken door locks.
5. She prepared, for the oral argument, by reviewing the trial transcripts and briefs.
6. The lawyer was late for the hearing. But, he had an excuse.
7. The defendant wanted to represent herself at trial, she thought her attorney was incompetent.
8. Jones filed a negligence claim against the supermarket when she was shopping there she slipped on a banana peel and broke her ankle.
9. The parents complained about the dangerous conditions in their children's school, they wanted metal detectors installed at the entrances to the building.
10. Madison's business is incorporated in Delaware he wants Florida law to apply to the contract.

4

Revising for Effectiveness and Editing for Readability

When you master this chapter, you will understand why every document must be

1. revised and edited;
2. properly structured; and
3. edited in discrete steps.

A. The First Draft Is Only the Beginning

A first draft is only that—a draft, a beginning. It should never be the final product. When presented with a legal question, the lawyer writes his way toward an answer. The first draft may be nothing more than a “brain dump” which memorializes facts, research, and theories. Through the act of composing, the lawyer gropes for the answer. When the answer comes, it is invariably on the paper in bits and pieces, not in a coherent, organized whole. Only when the whole answer is grasped can the lawyer arrange the paper in a way that will best communicate the solution to the reader. This is the task of revising and editing.

Every legal document must be revised and edited for three reasons:

1. To insure that the paper is properly structured—organized to help the reader understand the writer's points and lead the reader to the writer's conclusion.
2. To insure that the facts and the law are relayed accurately and completely.
3. To insure that the sentences and paragraphs conform to the basic principles of writing in Chapter 10.

This chapter demonstrates how to revise for effectiveness and edit for readability, and recommends an editing sequence for all of your writing.

B. Readers' Expectations

Readers have two general sets of expectations when they read a legal document. One set, covered in Chapter 10, consists of expectations about sentence and paragraph arrangement. The other, covered in this chapter, is a set of expectations about the substance of the writing:

- that the writer will provide the reader with whatever information the reader needs to understand what is being written and why, and
- that the writer will enable the reader to understand, on the *first* reading, what is being written and why.

C. Revising for Effectiveness

Revising focuses on the overall *effectiveness* of the document. After writing your first draft, you must reread it, reviewing it for content and organization.

Determine whether it is factually and analytically correct. Ask yourself whether what you have written will make sense to an uninformed reader. Make sure that you have included all of the information the reader needs to understand the document. This is the time to add missing information and explanations, and to delete redundant and unnecessary or irrelevant discussions.

In the second draft, you look at the document to identify its deficiencies and revise it to improve its overall effectiveness. In the next draft, you look at the document to sharpen its clarity and to improve its readability.

D. Editing for Readability

Editing focuses on the *readability* of the document. After writing your first draft and revising it for effectiveness, you are ready to edit for readability. Now is the time to determine whether the reader will be able to easily understand, on the first reading, what you want to say. Remember, the good writer helps the reader achieve the writer's level of understanding with minimal effort. This is readability and can only be accomplished by examining and editing all parts of the document.

1. Formal structure

The formal structure of a document comprises the particular parts required by the type of document you are writing. A common format of a legal memorandum, for example, calls for five parts: Question(s) Presented, Short Answer(s), Summary of the Facts, Discussion, and Conclusion, in that order. Other formal parts may be required for a brief—for example, a Table of Authorities and a Summary of the Argument. These parts will not necessarily aid a reader's understanding; they are simply potentially useful. Office convention or court rules govern the formal structure of legal documents.

But using the conventional formal structure of a document does not guarantee that your reader will understand what you have written. To reach your reader, you must provide a *necessary structure*.

2. Necessary structure

Every paper has a necessary structure—a beginning, middle, and end that, properly written, will inform the reader. The necessary structure is not arbitrary; it is not just *any* beginning, middle, or end that will work. To be readable, your writing must comport with readers' expectations of how a story is told. First, you must furnish readers with a road map to the document, setting out what you intend to accomplish. Second, you must deliver what you promise, supplying the

reader with the information that you outlined in your road map. Third, you must draw a conclusion that follows from the information you provide.

a. The road map: Your thesis

Imagine that a friend calls you up and says at the beginning of the conversation: "Hello. You'll see a supermarket on your right. That's how you'll know you're getting close." Would you have any idea what she is talking about? Start the conversation again. She invites you to spend the weekend at her house. Now the line about the supermarket has taken on context: it was part of the directions to her house. Even so, when giving directions to your home, you do not begin by saying: "Let me tell you first about a really interesting landmark you'll see somewhere near the middle." When you give directions you first say why you are providing them and then, beginning at the beginning, you literally provide a verbal road map: "Here's how you go from here to there."

Every memorandum and other document you write should have a clear and logical beginning. You must provide a road map for the analysis that follows. In the final version of your memo, the reader must encounter at the very beginning of the Discussion the *thesis* that sets the stage and makes clear to the reader what the document will do and why. Refer to Chapter 8 for a detailed discussion of the thesis of an office memo.

In providing an overview, the thesis accomplishes an important objective for both writer and reader. The thesis *focuses* the reader's attention on the legal issues and tells the reader to be on the lookout for a specific story. Thus alerted, the reader will understand the significance of the discussion that follows.

The writer, too, benefits from revising the thesis, for now she must strive to insure that the reader's expectations will be met. In other words, the proper thesis is a road map not just for the reader but for the writer. It tells the writer about to edit a draft what the focus of the discussion must be, highlighting the major points and helping the writer think about the connections among the facts, the law, and the desired outcome.

b. The Discussion

Following the thesis, the balance of the Discussion of the memo contains the analysis of the legal issues in the form of legal proofs. In editing the draft, the writer should strive to insure that the central part of the paper follows the outline of the thesis.

c. Conclusion

Although you will have highlighted your conclusion in the thesis, you should reiterate your conclusion after the Discussion to provide closure to the memo. Since you want your readers to agree with you and to come away from the document believing in what you have written, the last words should be the point toward which the document has been driving.

E. The Ten-Step Editing Sequence

Editing is the technique by which the writer transforms a raw draft into a readable final document. It is not a random or haphazard process. The writer knows what he wants to say, and that knowledge is communicated to the reader through the words on the page. If those words do not in themselves make sense, the reader will not understand the writer's point.

All writers have had the experience of being puzzled when rereading something they wrote earlier. No doubt they thought at the time they wrote the sentence that it made sense, but as they later read it they were confounded: what could they have been trying to say? During the time between the initial writing and the rereading, the writer's mind has been transformed: the writer no longer remembers exactly what he was thinking when he wrote the sentence. The intention behind the words has either vanished or become opaque. The writer, in other words, is now reading as the reader will. Only then, when the writer becomes the reader and reads as his intended audience will read, is it possible to edit the document to make it readable.

The first thing you must do, therefore, is to let some time elapse between writing the draft and reading it. Waiting until the last minute to write the first draft defeats the purpose. Get in the habit of writing to a "false" deadline. The false deadline will allow you to wait a day or two between writing and editing. Returning to the paper after the delay will enable you to reread it as a potential reader rather than as the actual author.

Of necessity, you must reread the paper more than once, for you will be editing in stages. Approach the editing task as a continuum: begin with large-scale structure and move along to fine detail. The reason for this sequence is obvious: In restructuring the paper you will necessarily be altering sentences and paragraphs. If you begin by editing sentences you will be forced to re-edit them once you get to the large-scale change. In an era of computerized word processing, rearranging and editing sentences and paragraphs (and even moving major portions of the paper) are quick and easy to do. If you are editing on screen you may well find yourself fixing minor errors as you encounter them. Nevertheless, the

editing sequence described below is the most efficient and comprehensive method for editing for readability.

10 Steps to Editing for Readability

1. Reread for the big picture.
2. Consider your audience.
3. Rewrite the thesis.
4. Use the new thesis to check structure and organization.
5. Check for formal structure.
6. Test topic sentences and the coherence of each paragraph.
7. Review sentence structure.
8. Put the paper away and read it again later.
9. Check length, format, and citation form.
10. Proofread the final hard copy.

1. Reread for the big picture

Reread the paper to insure that you have indeed resolved the issues or answered the question completely. You may have convinced yourself late at night that you had done so, but in the cold light of day you may discover that you have not succeeded. If not, keep working until you do.

2. Consider your audience

Once satisfied that you have thoroughly analyzed the issue, you must consider the matter from the perspective of your audience. Who are your readers? What are they likely to know or to have forgotten? Imagine yourself in their place and ask what information should be included to make your point understandable. For example, if you are writing to a partner in your law firm who is extremely familiar with the facts and law in your case, you can omit much of the detail that you would otherwise be required to include if you were writing to someone less familiar with the matter. Ask yourself not only what the reader knows about the law, but also what she knows about the particular matter. Consider also why she will be reading what you write, so you can tailor the writing to your reader's needs.

3. Rewrite the thesis

The thesis of the *finished* document may bear little resemblance to that in the *original* draft. Think about what you have accomplished in the paper you have

just reread and write a thesis that sets the stage and provides a road map to the revised document.

4. Use the new thesis to check structure and organization

Using the new thesis to guide you, go through the rest of the paper to check the structure of your analysis. Does it follow the road map in your thesis? Are the main and subsidiary points logically organized, or do the sentences and paragraphs wander? One quick way to check the tightness of your organization is to construct an outline from what you have actually written. Do the topics of each paragraph and section fit into a logical outline, or do you come back later to matters you had covered earlier? If you find bits and pieces of Section I in Sections III and IV, you will need to reorganize. Rearrange until the paper conforms to an orderly outline.

5. Check for formal structure

When you are satisfied that the paper is coherent and properly organized, make sure that the required parts of the document are all present and in their appropriate places.

6. Test topic sentences and the coherence of each paragraph

You are now midway through the editing continuum. At this point you should check to see whether every paragraph has a topic sentence and whether the balance of the paragraph supports that sentence. Also check for the flow of paragraphs and transitions between them: will the reader understand why one paragraph follows the next? Invariably, in editing paragraphs you may find yourself working on sentences themselves, not merely moving them around, because the flow of information depends heavily on the internal structure of sentences. But your major task at this point is to insure that the paragraphs as a whole are properly placed and organized.

7. Review sentence structure

You are now ready to review sentence structure. Your task will be greatly simplified if you go through your entire paper several times, checking each time for different problems. Since the largest obstacles to clear writing are unnecessary nominalizations, passive voice, and interruptions between the standard components of the sentence, you should begin by checking for each of these. Denominalize first. When you do so, you will often find that you necessarily

change the passive to the active voice and reconnect parts of the sentence that belong together. But just in case, go through the paper again looking for passive constructions and interruptions between subject and verb and verb and object. Then check to see whether the internal structure of the sentence is as it should be: are you beginning with the less important and older information and moving to the more important and newer? Next, turn to smaller elements of the sentence. Look for verbosity: cluttered phrases and redundancies. Consider your word choice: are you relying on inflated, pompous, Latinate words? Of course, along the way you might spot grammatical difficulties and other sorts of problems that are worth fixing as you encounter them. But if you know you have a particular weakness (pronoun antecedents, subject-verb agreement, or whatever else), read through the paper another time looking just for those errors. Wind up, after all other changes have been made, by checking for proper punctuation.

8. Put the paper away and read it again later

Make the time to put the paper away to let your editing changes “cool.” The same principle that applied to your first rereading of the paper applies to the edited version. You need time to let your mind, which has been actively thinking about what needed to be done, forget why you made the changes you did. You need to read the paper at least one final time from the perspective of your reader, asking yourself again the general question: is what I have written understandable and readable? Do I stumble over a sentence? Do I understand why each of the issues is discussed where it appears in the paper? Have I provided enough background information for the reader to grasp what is at stake and how the issues have been resolved?

9. Check length, format, and citation form

When you have at last completed your substantive changes and now have the paper the way you want it, check to insure that the citation form is correct. Then see how long the paper is. Many courts, agencies, and offices impose length limitations, either word or page limits, on legal documents. Do not dismiss these limitations as unimportant. Many courts and agencies will reject documents that violate these rules. Also make sure that the paper conforms to whatever formatting rules apply: margin, line spacing, footnoting, and the like. While you are at it, examine how the final document will look: does the top line on a page have only a word or two (what proofreaders call a “widow”)? Does a page end with a heading? Revise to give the final paper a polished look.

10. Proofread the final hard copy

If you can satisfactorily answer the questions posed under Step 9, you now must proofread the document in its final form—on paper. Are all the words spelled correctly? Is the punctuation that you added at the last moment properly incorporated in this final draft? You may believe it is unnecessary to read the paper copy because you used your word processor to spell check it. Do not be lulled into a false sense of security. Spell checkers are quirky and full of internal errors. They do not contain many words particular to your document. Moreover, they cannot spot incorrectly used homonyms (for instance, *their* instead of *there*) or simple typos (*that* instead of *than*). Also, what you see on the screen is not always what you get on the printed page. Computer glitches sometimes incorrectly send information to the printer, and the result can be gibberish on the hard copy. Or the paper may not have been placed straight in the printer and the result is a page with uneven or missing lines. Finally, use page numbers and check the order of the pages in the completed paper. You may have taken them out of the printer and stapled them in the wrong order. Once you have completed these steps, you can submit the paper confident that it is correct, concise, coherent, readable, and polished.