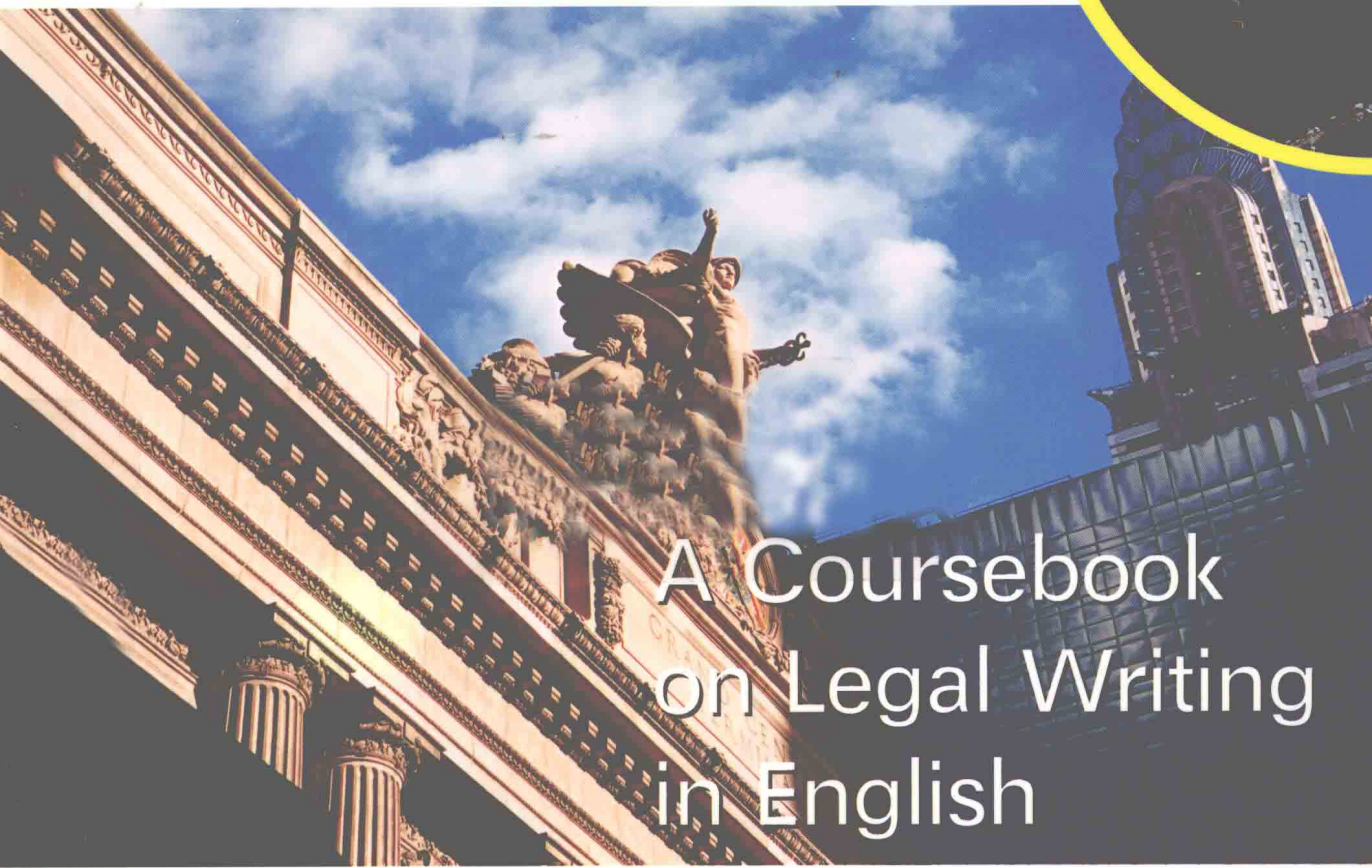


全国高等院校法律英语精品系列教材

法律英语证书 (LEC) 全国统一考试指定用书

法律英语证书 (LEC) 全国统一考试指导委员会 / 编

法律英语 写作教程



A Coursebook
on Legal Writing
in English

中国法制出版社
CHINA LEGAL PUBLISHING HOUSE

全国高等院校法律英语精品系列教材
法律英语证书（LEC）全国统一考试指定用书

A Coursebook on Legal Writing in English

法律英语 写作教程

法律英语证书（LEC）全国统一考试指导委员会 / 编

中国法制出版社
CHINA LEGAL PUBLISHING HOUSE

图书在版编目 (CIP) 数据

法律英语写作教程/法律英语证书 (LEC) 全国统一考试指导委员会编. —2 版. —北京: 中国法制出版社, 2011. 8

ISBN 978 - 7 - 5093 - 3073 - 9

I. ①法… II. ①法… III. ①法律 - 英语 - 写作 - 教材 IV. ①H315

中国版本图书馆 CIP 数据核字 (2011) 第 159256 号

策划编辑 唐 鸥

封面设计 李 宁

法律英语写作教程

A Coursebook on Legal Writing in English

经销/新华书店

印刷/三河市紫恒印装有限公司

开本/787 × 1092 毫米 16

版次/2011 年 9 月第 2 版

印张/ 15.75 字数/ 278 千

2011 年 9 月第 1 次印刷

中国法制出版社出版

书号 ISBN 978 - 7 - 5093 - 3073 - 9

定价: 39.00 元

北京西单横二条 2 号 邮政编码 100031

传真: 66031119

网 址: <http://www.zgfzs.com>

编辑部电话: 66066820

市场营销部电话: 66017726

邮购部电话: 66033288

法律英语证书（LEC）辅导教材编写指导委员会

（按姓氏笔画为序）

- 万 猛 北京外国语大学法学院教授
- 王铭玉 天津外国语大学教授
- 马秋武 同济大学外国语学院教授
- 李 立 中国政法大学外国语学院教授
- 李 燕 西南政法大学法律硕士学院教授
- 孙有中 北京外国语大学英语学院教授
- 刘法公 浙江工商大学外国语学院教授
- 刘蔚铭 西北政法大学外国语学院教授
- 沙丽金 中国政法大学外国语学院教授
- 宋锡祥 上海外国语大学法学院教授
- 张 清 中国政法大学外国语学院教授
- 张法连 中国政法大学法律英语教学与测试研究中心教授
- 姚骏华 华东政法大学外语学院教授
- 姜 芳 法律英语证书（LEC）全国统一考试指导委员会
- 简基松 中南财经政法大学法学院教授
- 蔡镇顺 广东外语外贸大学法学院教授

前言

涉外法律实践要求从业人员将谈判、咨询、法律研究以及辩论的能力整合在一起,而有一种能力是以上所有能力的基础,这就是高效的法律英语写作能力。法律文书应当是十分清楚、精准、全面而且通俗易懂的,但是,涉外法律文书种类的纷繁复杂给我国涉外法律从业人员的工作带来极大的障碍。为了方便涉外法律从业人员学习法律英语写作,本书详细介绍了几种重要、实用的法律文书的写作方法。

本书共分为三部分,第一部分为律师信函,详尽介绍了几种常用信函的写法。与当事人的沟通信函的主要目的是与当事人明确沟通,因此一般使用通俗易懂的非法律语言,注重的是语言技巧,这是涉外法律从业人员必须轻松掌握并熟练运用的。与对方当事人或其代理律师的沟通信函多是与诉讼相关的信函,涉及大量法律术语,这是希望在法律英语方面提升自己的读者应当重点学习的内容。律师处理日常事务的信函也很有特点,通过本章的介绍可使欲从事涉外法律事务的人士在处理日常事务时有章可循。

第二部分介绍了法律分析报告或法律备忘录(Law Office Memo)的写法。在英美法系国家,法律分析报告由初级律师撰写,由高级律师最终确定,其内容是通过对该案件的客观分析,预测出适用相关的法律将对其当事人产生的影响。本书该部分内容主要介绍了概括事实的方法、提出案件主要争议点的技巧以及案件剖析讨论的写作方式。

律师辩论书(Brief)在法律英语写作中占有相当重要的地位。尽管律师辩论书在许多方面与法律分析报告相似,但两者在本质上是不同的。法律分析报告是客观的分析究竟哪方当事人的理由更加充分,并且一般要在分析的最后阶段才能得出结论;而律师辩论书的撰写人在写作之前已经知道了基本结论,其主要任务是为结论寻找支持的依据,并极力证明他的当事人的理由更加充分,应当得到法院的支持。因此在写作方法上,律师辩论书也有别于法律分析报告。我国涉外法律服务人员应当特别注意,在法律英语写作中,向初审法院和向上诉法院提交的诉状、答辩状等法律文书的要求是不同的,写作方法也是不同的。本书在第三部分着重介绍向初审法院提交的律师辩论书的写作方法和向上诉法院提交的律师辩论书的写作方法。

法律英语证书(Legal English Certificate,简称LEC)全国统一考试旨在为国家机关、涉外企事业单位、律师事务所等提供招募国际性人才的客观标准,同时督促国内

法律从业人员提高专业英语水平。LEC 考试的题型、考查内容与美国律师资格考试相近，同时又突出了法律英语语言运用特色，并结合中国实际增加了法律英语翻译测试。公检法机关和企事业单位涉外法务工作人员；从事涉外法务的律师、公司法律部门的从业人员；高等院校法律、英语、经贸等专业学生；愿意从事法律英语教学的教师以及社会上一切法律英语爱好者均可参加 LEC 考试。LEC 考试每年举行两次，分别在 5 月和 12 月的最后一个星期六举行。有关考试信息请考生关注 LEC 官方网站：www.lectest.com。

本书的参考资料全部来自美国知名法学院学生用原版法律英语写作参考用书，我们力求保证所选资料的原汁原味。同时，书中引用了大量的律师信函、法律分析报告、律师辩论书等主要法律文书的原版范文，在此对原作者表示衷心的感谢！本书由法律英语证书（LEC）全国统一考试指导委员会组织专家编写，它不仅为欲参加 LEC 考试的考生提供了系统权威的复习指南，也是一本为全国高等院校学生学习法律英语所精心编写的精品系列教材之一。

书中不当之处，敬请同仁指正。

编 者
2011 年 9 月

Contents

| | | |
|-------------------|--|------------|
| Chapter 1 | Introduction to Legal Writing | 1 |
| Chapter 2 | Writing Letters | 6 |
| Chapter 3 | Law Office Memorandum Writing | 51 |
| Chapter 4 | Basics of Writing Briefs | 92 |
| Chapter 5 | Briefs to a Trial Court | 130 |
| Chapter 6 | Briefs to an Appellate Court | 146 |
| Chapter 7 | Effective Advocacy in Brief Writing | 157 |
| Chapter 8 | Legal Citations | 170 |
| References | | 243 |

Chapter 1 Introduction to Legal Writing



从人们学习语言的规律来讲,“写”是最难掌握的语言技能。法律英语学习本身就很难,法律英语的写作可谓难上加难。但是法律英语写作能力对涉外法律工作者来说是一项非常重要技能,非掌握不可。我们经常看到英美影视作品中律师出庭能言善辩,其实这短暂的精彩表现是莫基于诉讼过程中所写的法律文书之上的,所以从这个角度说,英美律师的主要工作是写作而非口头辩论。

英美法学院的学生学习写作主要是学习 Law Office Memorandum 法律分析报告(也译法律备忘录)和 Briefs 律师辩论书的写法。本书都有专章详细介绍其写作基本要求,在此不再赘述。

作为一种语言变体,法律英语在英语基本词汇系统和语法规则的基础上有了一定的规律,如其句法结构形式比较固定,使用陈述句的频率比较高,往往带有一定数量的专业术语等。因此,在词汇、语法、语义、语用、修辞等方面,法律英语又有自己的特点,形成了特定的法律英语语言风格。从写作的角度对这些特点进行分析探讨,会有助于学习者对法律英语文体风格的把握,从而写出正确、规范、地道的法律英语。

传统的书面法律语言通常具有注重庄重性和严谨性的特点,但在 Plain English Movement 简明英语运动的影响下,现代法律语言却越来越崇尚语言的平易性、简约性,力求用不多的笔墨,言简意赅地表述内容,使各种条令、法规能够准确地得到理解和执行。力求简单、直白是现代法律英语总的发展趋势。著名的美国法律写作专家 C. Edward Good 教授总结归纳出 19 条“金科玉律”作为该趋势的体现,供读者参考:

- (1) Use an average of 25 words per sentence. (每个句子的平均用词最好为 25 左右)
- (2) Avoid putting too many messages in a single sentence. (一个句子中不要试图包含太多信息)
- (3) Put most of your messages at the subject-predicate position. (把最重要的信息放在句子的主语和动词结构中出现)
- (4) For variety or emphasis, invert your sentences. (适当使用倒装句,以突出强调或

使句式有所变化)

(5) Use the art of subordination to smooth out choppy things. (使用从属结构合并句子, 以免句子过于琐碎)

(6) Avoid disrupting your sentences with thought-stopping gaps. (在句子中间尽量不要插入使思想中断的短语, 以保持意义的连贯)

(7) Watch out for the rule of parallel construction. (适当、正确地使用平行结构, 使行文紧凑, 意思鲜明)

(8) Tabulate particular complex information. (对特别复杂的信息须进行列举说明, 以便表达清晰)

(9) Hammer home your point with the powerful, versatile verb. (使用生动有力、内涵丰富的动词, 以便把意思表达明白)

(10) Use the verb to be only when you mean it. (尽量少用动词"to be"结构, 除非用不可)

(11) Get rid of compound prepositions. (尽可能不用复合介词)

(12) Cut adjective, adverb, and noun clauses to other structures satisfying the same function. (尽量把定语从句、状语从句和名词性从句简化成其他结构, 来表达同样目的)

(13) Prefer the active voice, but use the passive to satisfy certain objectives concerning the identity or placement of the actor or the recipient. (尽可能使用主动语态, 但在需要区分动作的执行者或接受者并使其突出时可使用被动语态)

(14) Favor short words over long, fancy words. (尽可能使用短词、小词, 避免用长词、大词、花哨词)

(15) Use concrete words to paint vivid images in your reader's mind. (尽量使用具体词汇, 以给人留下深刻印象)

(16) Use modification to trim down the fat in your language. (写作后进行必要的修改, 以使语言简明扼要)

(17) Use phrases to smooth out the choppy noun-noun modifier. (可以使用短语, 以免过多的名词修饰)

(18) Do not use too many negative expressions. (不要使用过多的否定表达)

(19) Be fair and nonsexist, but don't be stupid. (行文不要带性别偏向, 但也不要做得过头甚至好笑)

"Lawyers in practice are generally judged by the final product they produce; the written, negotiated text. Clearly, in my firm, the first thing new lawyers will be judged upon is their writing. The fastest way to get ahead as a new lawyer is to be an able writer. The fastest way to fail is to be a poor writer."

——Bryn Vaaler, *Compositional Practice: A Comment on "A Liberal Education in Law,"* 1 J. ALWD 148, 149 (2002). ^①

From this, we can see clearly the importance of legal writing for the law professionals. The general introduction to legal writing is as follows.

1. Definition

Legal writing is a special type of writing done by attorneys, judges, legislators and others in law. The purpose of this writing is to communicate various legal rights, analysis, and legal duties etc. Unlike regular writing, legal writing is technical and involves continuous dependence on citations, gives importance to precedence and uses special legalese that sounds very formal. There has been a move to reduce such very formal style of writing and to make legal writing simple enough for the layman to understand. However, one must remember that the purpose of legal writing is to make a precise document and informal style may make a legal document's intentions hazy. ^②

2. Features

Legal writing has three features: 1) Authority; 2) Precedent; 3) Terminology. First, legal writing values authority. In most legal writing, the writer must clearly cite the authority. This is accomplished by a unique and complicated citation system, unlike that used in any other genre of writing. The standard methods for American legal citation are defined by two competing rule-books: the *ALWD Citation Manual: A Professional System of Citation* and *The Bluebook: A Uniform System of Citation*. Different methods may be used in other countries.

Second, legal writing values precedent, as distinct from authority. Precedent means the way things have been done before. For example, a lawyer who must prepare a contract and who has prepared a similar contract before will often reuse, with mere changes, the old contract for the new occasion. Many lawyers use and reuse written documents in this way and call these reusable documents templates or forms.

Third, legal writing extensively uses technical terminology that can be categorized in four categories: 1) Specialized words and phrases unique to law, e. g. , tort, plaintiff, and recidivism. 2) Quotidian words having different meanings in law, e. g. , battery (physical interference with another person), discovery (disclosure of information by the opposing party in a lawsuit). 3) Archaic vocabulary: legal writing employs many old words and phrases that were formerly quotidian language, but today exist only in law, dating from the 1500s; English examples are herein,

^① http://raymondward.typepad.com/rainman2/2004/12/the_importance_.html

^② <http://ezinearticles.com/?What-is-Legal-Writing?&id=1223274>

hereto, hereby, heretofore, herewith, whereby, and wherefore (pronominal adverbs); said and such (as adjectives). 4) Loan words and phrases from other languages : In English , this includes terms derived from French (jury , breve , and voir dire) and Latin (alibi , affidavit , de facto , quorum , certiorari) and are not italicized as English legal language , as would be foreign words in mainstream of English writing.

These features tend to make legal writing formal. This formality can take the form of long sentences , complex constructions , archaic and hyper—formal vocabulary , and a focus on content to the exclusion of reader needs. Some of this formality in legal writing is necessary and desirable , but when legal content must be conveyed to non—lawyers , formality should give way to clear communication.

Many U. S. law schools teach legal writing in a way that acknowledges the technical complexity inherent in law and the justified formality that complexity often requires , but with an emphasis on clarity , simplicity , and directness. Yet many practicing lawyers , busy as they are with deadlines and heavy workloads , often resort to a template—based , outdated , hyper—formal writing style in both analytical and transactional documents. This is understandable , but it sometimes unfortunately perpetuates an unnecessarily formal legal writing style.

3. Categorization

Legal writing is categorized into two types : legal analysis and legal drafting. Legal analysis can be predictive or persuasive writing , while legal drafting creates binding , legal text. In the United States , in most law schools students must learn legal writing ; the courses focus on : (1) predictive analysis , i. e. , memorandum ; and (2) persuasive analysis , e. g. , briefs. Although not as widely taught in law schools , legal drafting courses exist ; other types of legal writing concentrate upon writing appeals or on interdisciplinary aspects of persuasion. ^①

Memoranda are documents that lawyer must write to analyze the merits of a case or a particular legal issue. Legal advice to a client is often based on a formal memorandum of law , which is a basic document of legal writing. It is usually written by a clerk or junior attorney for a more experienced attorney to predict what effect application of the relevant law will have on the client's situation. Senior attorneys use memorandum to determine what advice to give a client. The specific guide of writing memoranda is given in Chapter 3 (Law Office Memoranda Writing).

The brief is the formal document a lawyer uses both to convince a court that the client's position is found and to persuade a court to adopt that position. Briefs are similar to memorandum in many respects , and many of the principles apply to briefs. Both must honestly state the law , the facts of the case , and the reasons for their conclusions clearly and concisely. But briefs differ from memoranda : Briefs argue ; memoranda discuss. How to write the brief is addressed in Chapter 4 (Basics of Writing Briefs).

In addition , lawyers write many letters to communicate information to clients , to request in-

^① http://en.wikipedia.org/wiki/Legal_writing

formation from government agencies and other lawyers. All letters benefit from clear writing and simple organization. How to write a legal letter is discussed in Chapter 2 (Writing Letters).

4. Techniques

When you start legal writing, always remember **Issues, Rules, Application, Conclusion—IRAC**. IRAC is often a good starting point for an essay involving doctrinal analysis of the law.^① The writer must start with identifying the relevant legal issue, which often involves a mixed question of law and fact. Then, the writer must identify the controlling rule of law and give some citation of authority to the source of the rule. Next, the writer applies the facts to the rule of law. Finally, the writer concludes the discussion of the issue and predicts how the court should rule on the particular legal issue.

Planning is the key to effective writing. Consider the available time, and divide the task into manageable sub—tasks. You may need to decide who your readers are and what they need to know. By default, assume you are writing for a lawyer without detailed knowledge of the topic under consideration.

The most important stage is **research**. You need to prepare your writing by collecting information. Make full use of printed and electronic documents to find relevant sources. Make notes about your sources, including an accurate reference complying with the rules set out in this document. Always remember you are the only person who is responsible for the accuracy of these references. **Quotations** must be enclosed in quotation marks ("...") and must have a pinpoint reference (page or, if available, paragraph number). Short quotations can be included naturally in the text, but anything that runs for more than three lines should be separated from the text in an intervening paragraph and indented from the left hand margin. Large numbers of long quotations should be avoided. Make sure you are aware of and comply with the rules against plagiarism. If the quotation is not attributed, it is kind of plagiarism.

Whatever the task, your aim should be to write clearly, directly and succinctly, avoiding bad grammar and spelling mistakes as well as unnecessary jargon, circumlocution, and tautology. Consider carefully the **order** in which your material is to be arranged so that your arguments can be put as clearly as possible. You will need to be able to use word—processed **footnotes**. And, you should use recognized legal **abbreviations**. For example: *Ibid*, *loc cit*, and *cf*.

Include **revision** time in your plan. Proofread the entire document, checking for internal consistency, spelling and correct references. Word processing spelling checkers should be used with caution. They will detect many typographical errors but may offer incorrect or even absurd alternative forms, and are not a substitute for proof reading, and the use of a dictionary.

To sum up, this is the general introduction to legal writing in terms of definition, features, categorization, and techniques. The book will show you the specific writing skills and procedures of legal writing in following chapters.

① <http://www.ncl.ac.uk/nuls/lectures/legwrit/legal%20writing%20v%207.pdf>

Chapter 2 Writing Letters



律师要经常写律师函与客户、对手等进行有效地沟通。哪怕是你已经通过电话和对方进行了很好的沟通,有经验的律师还会再写一封信来确认电话中所谈内容。律师撰写信函有很多目的:给客户提建议,寻求妥协,发送文件,获取信息等,所以信函都应该清晰明了,简单有序。所有的律师函都有一个共同的特点:言简意赅,平实无华;切忌堆砌辞藻,空洞无物。熟练撰写律师函是律师工作的一项基本技能。

动笔起草信函之前要明晰如下基础性的准备工作:

查找信函范本。你可以在以前起草的信函中寻找类似的范本,也可以参考一下此文附录中所列的范本(包括预约书,说明书,正式请求书,合同谈判备忘录,合同意见书及传真函等)。

参考一下那些以前发给该收信人的信函。回顾以前的信函可以提醒您在工作流程中走到了哪一步,写了些什么,还需要说些什么。所以说,这样做可以让您把握信函的方向和要旨。

未经允许,不要发函给另一个律师的客户。所以在发送之前,要确认收信人是否已经有代理律师。

列出提纲,排列出要谈的几个关键点。

信函的页首常常要注明时间、收信人姓名、住址等繁琐事项。如果这些事项有错误或是被疏漏,说得严重一点,会让人觉得书写者有些粗心大意。所以,从一开始起草信函时就要小心谨慎,注意那些特别事项,让收信人觉得律师函比一般信函确实庄重严肃。

如果您是以前或以电子邮件的形式发送信函,应在信函上印上日期和具体时间。

提醒客户对其与律师之间的交流沟通负有保密义务。

写清收信人的法定名称和住址。

若不使用传统邮件送交信函,就要特别说明送交的方式。如果是用传真发送,就要注明传真号码和电话号码;如果是以前或以电子邮件的形式发送,就要注明电子邮件的地址;如果是让您的同事送交到某个地点,那只需在信函上注明送交的方式即可。

传真通知。在发传真的时候,最好附一个传真通知以防发错了号码。发完传真后,

要打电话给收件人确认其已经收到传真,并在有空余的地方记下收件人的名字。

信函主体部分是关键,您必须让读者清楚地知道您想要表达的意思和目的:

明确您和客户之间的关系,让其他人尽快地了解到谁是您的客户,这样做很重要,也会带来意想不到的效果。首先,这会告诉读者您的客户有律师;其次,这还让读者知道您不是他的律师。如果不这样做,会让那些实际上和您没有代理关系而自认为和您有代理关系的人起诉您,所以这样做,也会让那些不负责任的送交者感到有些轻松。因此,您在起草信函的第一时间、第一部分应该写道:“我代表_____。”自此以后每次撰写信函,您都应该再次证实您所代理的客户并称之为“我的客户”。

陈述信函的要旨,这是核心部分。

如果有随信附件,首先要列出他们的清单。附件清单应该放在信函的首部,这既可以让您的工作人员轻松地收集这些附件,也可以让读者确认这些附件是否已经全部收到。

用独立的段落来描绘出信函的轮廓。信函的每个段落最好只表达一个独立的意见、观点或概念。每个段落最多也只用四个或五个短句组成。如果某个段落过长,则应分成几个小分段。段落之间应该按逻辑顺序有条理地组织起来。给每个段落加上一个标题并在该标题的下面划上下划线,这就像给一篇新闻注上标题一样,作用是既可以让读者轻易地浏览信函全文并决定怎样继续精读和消化信函的内容,还可以让您以后在文件中很容易地查找信函的内容并回想起当时为什么要这么写。每个段落只能围绕一个中心来展开论述,您应集中笔墨论述您在提纲中列出的概念或观点。

陈述您的设想和依据。不管是意见书还是非意见书,都要详细说明有事实根据的设想并给出相关意见和建议所依据的法律。对意见书来说,常规是要详细陈述意见所依据的事实以及相关的成文法和判例法。为了避免将来引起误解,所以每封信函在提供意见或建议时都会提供相关的依据。

对客户的要求可用粗体字母表述,客户就会一目了然,心领神会。

LAWYERS USE letters, notes and memoranda to communicate information to clients, to request information from government agencies and other lawyers. There are, of course, many other purposes for letters and many styles of writing them. For example, you may want information about a graduate school program, you may need to thank a person who has helped you, or you may want to find temporary or permanent employment.

Lawyers write many letters. These letters serve different purposes, such as advising clients, seeking compliance, sending documents, obtaining information etc. . All letters benefit from clear writing and simple organization. Lawyers who write direct and concise letters to non—lawyers are more likely to achieve successful results. All of these letters have one thing in common: They are not great literature. They will not be read in a hundred years and analyzed for their wit, charm or flowery words. With any luck they will be read just once by a few people, followed quickly by their intended result, whether that be compliance, understanding or agreement. ①

1. Classification of the Letters

There are mainly three types of legal letters to be covered in this chapter:

(1) Attorney—Client Correspondence

The Attorney—Client Correspondence refers to the letters sending from the attorney to their clients or prospective clients. The attorney may give his client some advice, ask for information, make sure the attorney's fees, and so on.

(2) Attorney—Adverse Party Correspondence

The Attorney—Adverse Party Correspondence means the letters sending from the attorney to the adverse party or the attorney representing the adverse party to negotiate, ask the adverse party to take action, and so on.

(3) Daily Correspondence

The Daily Correspondence is the letters attorneys dealing with the routine works concerning law, such as asking the information of a law school or a legal newsletter.

2. Steps to Write a Letter

There are many factors to be considered in legal letter writing. Please follow the following steps to write a complete legal letter.

(1) Find a letter form.

Find a similar letter you have sent in the past, or see the sample letters in this Chapter.

(2) Do not send a letter to another lawyer's client without that lawyer's consent.

Before sending the letter, find out if the non—lawyer is represented by someone else. Start by asking your client.

① <http://www.jamesmartinpa.com/letters.htm>

(3) Outline your thoughts in a checklist.

Before turning on your computer or dictating machine, pull out a yellow pad and jot down the main points for your letter. List what you want the letter to say. Write the points in any order; write them as they come into your mind.

(4) Start your letter carefully.

Letters begin with boring things like the date and recipient's name and address, but if any of these are missing or wrong, the letter writer will look pretty careless, to say the least. So be careful when starting the letter.

(5) Date your letter.

Date your letter the day you write it, and send it the same day. Consider using the international dating convention of day—month—year rather than the U. S. convention of month—day—year.

(6) Indicate the time of your letter.

If you are sending a fax or email, then type the time next to the date. While letters "cross in the mail" in days, faxes and emails "cross in the wires" in hours and minutes.

(7) Remind your client to preserve attorney—client confidentiality.

Sometimes clients show your letters to others without realizing they can lose the attorney—client privilege of that communication. Add this phrase at the top of the letter to remind them not to do this:

CONFIDENTIAL ATTORNEY—CLIENT COMMUNICATION

DO NOT COPY OR DISCLOSE TO ANYONE ELSE

If the letter is written during or in anticipation of litigation, the following phrase can be used:

CONFIDENTIAL ATTORNEY—CLIENT COMMUNICATION AND WORK PRODUCT

DO NOT COPY OR DISCLOSE TO ANYONE ELSE

(8) Be sure to use the recipient's correct legal name and address.

Your letter may be relied upon for its accuracy, so be accurate. Verification of names can be obtained from the public records, the phone book, or the websites. And when it comes to middle initials, never rely on your memory or guess at it because most of the time you'll be wrong.

(9) Indicate the method of delivery if other than mail.

If being faxed, include the fax number and telephone number. If being sent by FedEx, state whether it is by overnight or second day. If being sent by email, state the email address. This will make it easy for your staff person to send it to the correct place, and it will document for your file how it was sent.

(10) Include a fax notice.

When sending by fax, include a notice in case it is sent to the wrong number. Here is the

notice when sending a fax:

NOTICE: This is privileged and confidential and intended only for the person named below. If you are not that person, then any use, dissemination, distribution or copying of this is strictly prohibited, and you are requested to notify us immediately by calling or faxing us collect at the numbers above.

Date Sent _____ Time Sent _____

Number of Pages _____ Receipt _____

(11) Putting more emphasis on body of the letter.

The body of the letter is why you are writing it. You succeed by leaving the reader with full knowledge of why you wrote the letter and what it means.

(12) Identify your client.

It is important to let others know who your client is at the earliest opportunity. This accomplishes a great deal. First, it tells the reader that your client has a lawyer. This makes your client happy because most clients want the world to know they have a lawyer. Second, it tells the reader that you are not the reader's lawyer. This makes your malpractice carrier happy because it's one less person who's going to sue you claiming they thought you were representing them when, in fact, you were not.

(13) State the purpose of the letter.

Why leave the reader guessing? Go ahead and say right up front why you are writing the letter. Here are some opening sentences:

"The purpose of this letter is to _____."

"I am writing to let you know that _____."

"This letter is to inform you that _____."

"My client has instructed me to _____."

"This is to confirm that _____."

"This confirms our phone conversation today in which _____."

(14) If there are any enclosures, list them first.

Listing enclosures at the beginning of the letter will make it easier for your staff to assemble them and for the reader to check to be sure all was received. The enclosures should be described with specificity so that there is later no question as to what was enclosed. At a minimum, the title and date of each document should be listed.

(15) Outline the letter as separately numbered paragraphs.

Each paragraph of the letter should state a separate thought, comment, point or concept. No paragraph should be longer than four or five short sentences. If the paragraph is longer, then separate it into subparagraphs. The paragraphs should flow in logical, organized fashion. It is not necessary to write them all at once; you can write them as you think of them. Try to group related concepts in the same paragraphs or in adjacent paragraphs. Give each paragraph a title and