

Document Competency: What Every Legal Professional Should Know for Effective & Efficient Drafting in Word

Modules from A Discussion of Document-Creation Workflows and Best Practices Guide



MODULE FOR PRE-DRAFTING: Considerations when Re-Using Documents

Without a document automation system or ready-made template in place, for most legal drafters, the first step in creating a legal document involves finding a similar document to re-use.

By starting with an existing document, a drafter has a framework from which to work: an outline of the necessary parts, ready-to-use wording, and pre-designed style and formatting. But re-using documents without understanding or evaluating them can lead to including irrelevant or conflicting information. It may also mean carrying forward broken style and formatting.

Most drafters re-use documents because they believe it saves time, but it can have the opposite result. It takes time, knowledge, and confidence for a drafter to evaluate text in a document and decide to delete it.

The most significant problem that arises from document re-use is inadvertently exposing confidential client information in the form of metadata, editing history (tracked changes and comments), and names, dates, terms, negotiable values, and clauses left in the document.

Using a template forces the lawyer to consider the alternatives and eliminates inapplicable language in each case.

Tasks You Should Expect to Perform When Re-Using Documents

- Cloning document for re-use and saving with a new name in new location
- Clearing document properties (metadata) after duplicating original document
- Clearing matter- and client-specific information from prior engagement
- Evaluating and reviewing formatting of existing work
- Repairing a corrupted document or fixing broken formatting
- Saving useful clauses for re-use in future documents

Here's How You Can Take It to The Next Level

The tasks involved in re-using a document are not billable, so working efficiently is key.

One can invest substantial time to clone and adapt a document from prior client work to create a template. The long-term gains can be difficult to visualize. However, the practice of reaching into the old file is fraught with complications as previously mentioned.

Using customized documents can be dangerous because all provisions the lawyer may want to consider are removed from the document during drafting and are therefore missing and may not be properly considered, if at all, by the lawyer preparing the new document.

Using a template forces the lawyer to consider the alternatives and eliminates inapplicable language in each case. This may or may not improve one's speed but it will improve the lawyer's confidence in the work and the quality of the product. For lawyers who work in practice areas where a high volume of documents is produced with significant changes in each document, they should consider document automation. A document assembly allows the lawyer to efficiently draft and/or delegate drafting work to junior lawyers or paralegals or other support staff.

The most significant problem that arises from document re-use is inadvertently exposing confidential client information in the form of metadata.

Effective Document Re-Use Checklist

Have you completed this document re-use task?	Here's How to Do It in Word	Work More Efficiently with These Professional-Level Tools
<input checked="" type="checkbox"/> Cleared matter and client-specific information from prior engagement using Find-and-Replace with wildcards in Home tab	How-to	Content Companion Anonymize (Litera)
<input checked="" type="checkbox"/> Cleared document properties after duplicating original document using Document Inspector feature under File tab	How-to	PuR MetaData ; DocStyle ; Scrub (BigHand)
<input checked="" type="checkbox"/> Evaluated and reviewed formatting and style of existing work using Show/Hide ¶ button to reveal hidden characters like spaces and paragraph markers	How-to (Show/Hide) and How-to	DocXtools (Litera) ; DocStyle , Create (BigHand)
<input checked="" type="checkbox"/> Reformatted a document using Styles in Home tab, if needed	How-to	DocXtools (Litera) ; DocStyle , Create (BigHand) ; BrochetPaste
<input checked="" type="checkbox"/> Saved clauses and form language for re-use using Quick Parts under Insert tab	How-to	Content Companion (Litera) ; CounselHQ ; Create (BigHand) ; LitKit (for discovery responses and answers)
<input checked="" type="checkbox"/> Created templates and model documents for future work under File tab	How-to	HotDocs ; Contract Express ; Woodpecker ; LawYaw ; Content Companion (Litera) ; Create (BigHand)
<input checked="" type="checkbox"/> Saved sources and legal authorities for re-use	Manually	LitKit ; Lexis for Microsoft Office ; Lexis+ ; Westlaw Edge

NOTE: When surveyed, legal practitioners suggested that non-substantive document-creation tasks should take no more than 5 minutes per page. If you are spending more than 5 minutes per page, please consider technology training or trying a professional-level tool that will improve your efficiency and effectiveness.

Putting the Document Re-Use Tasks in Context



About the Effectiveness Project

This module is an excerpt from a comprehensive working paper by the Effectiveness Project team. The Effectiveness Project is an ongoing collaboration of legal professionals that seeks to provide a clear framework for document creation through identifying best practices, suggesting baseline skills, and offering curated how-to resources. The group was formed in March 2020 and released its working paper in August 2021.

The team is led by Ivy B. Grey, former practicing lawyer and Vice President of Strategy & Business Development for WordRake and Tony Gerdes, Director of Knowledge and Innovation at Offit Kurman, P.A., and Contributing Member of LTC4™ (Legal Technology Core Competencies Certification Coalition). The group also includes Rachel Baiden, Global Technology Training Manager, Squire Patton Boggs; Adrian Bailey, Chief Architect, DocStyle, LLC; Chris Cangero, Chief Executive Officer, DocStyle, LLC; Dave DiCicco, Senior Director of Product Management, LexisNexis; Florentina Field, Co-Founder of Prelimine, Litigation Attorney; Jacob Field, Co-Founder of Prelimine; Sherry Kappel, Evangelist, Litera; Colin Levy, LegalTech Evangelist and Blogger; and Dyane L. O’Leary, Associate Professor of Legal Writing and Director, Legal Innovation & Technology Concentration, Suffolk University Law School. The Effectiveness Project also received contributions from Alma Asay, Founder, Allegory; James Gillis, Estates and Trusts Attorney, Offit Kurman, P.A.; and Douglas Lusk, Founder, National Society for Legal Technology.

Resources to Learn More About the Need for Document Competency

| General Introduction:

1. [The Lawyer's Guide to Microsoft Word 2013](#) by Ben M. Schorr
2. [Microsoft Word for Lawyers](#) by the Lawyerist
3. [Formatting Legal Documents with Microsoft Word 2016](#) by Jan Berinstein, Ph.D.
4. [Wildcard Cookbook for Microsoft Word](#) by Jack Lyon
5. [Macro Cookbook for Microsoft Word](#) by Jack Lyon
6. [Microsoft Word For Legal Practitioners](#) by Monica Korf

Comprehensive:

1. Eugene Volokh, *Chief Justice Robots*, 68 Duke L.J. 1135 (2019) (discussing the roles for AI in legal practice, including writing briefs).
2. Ivy Grey, *Ethical Duty of Technology Competence: What Lawyers Need to Know* (Aug. 2020) available for download at https://www.wordrake.com/tech_competence
3. Heidi Frostestad Kuehl, *Technologically Competent: Ethical Practice for 21st Century Lawyering*, 10 Case W. Res. J.L. Tech. & Internet 1 (2019).
4. E-Book: *The Lawyer's Guide to MS Word Training and Resources*, Intelligent Editing June 22, 2019), <https://legal.intelligentediting.com/blog/free-e-book-the-lawyers-guide-to-ms-word-training-and-resources/>
5. "Smart" Lawyering: *Integrating the Duty of Technology Competency into the Legal Writing Curriculum*, 19 U.N.H. Law Rev. 197 (2021) (Section IV(A)) available at <http://ssrn.com/abstract=3671632>.