

ABA Formal Opinion 512 — a ten-step checklist for a firm AI policy

Ten steps before you put a client's matter into a generative-AI tool. Page references are to the ABA Standing Committee's Formal Opinion 512, "Generative Artificial Intelligence Tools" (29 July 2024); items 4 and 10 draw on the state-bar opinions issued since.

- ☐ **Know the tool before you use it.** Read its Terms of Use and privacy policy, or have a colleague or an outside expert who has read them brief you (p. 7): who can access what you input, whether it trains on it, and whether the tool "retains information submitted by the lawyer before and after the discontinuation of services" (pp. 7, 11).
- ☐ **Classify the task.** Idea generation that inputs no information relating to the representation needs no consent. Anything that touches the matter triggers the Rule 1.6 analysis (p. 7).
- ☐ **Assess the risk with the Comment [18] factors.** Sensitivity of the information, likelihood of disclosure without safeguards, cost and difficulty of safeguards, and how far they hamper the representation (p. 6; Rule 1.6, Comment [18]).
- ☐ **Minimize before input.** Remove client identifiers and any facts whose disclosure "could reasonably lead to the discovery of such information by a third person" (Rule 1.6, Comment [4]), and do it before the text is submitted to the tool. Then check the result: Oregon's opinion says anonymization must be "complete and effective," and D.C.'s warns that unusual facts can still identify the client.
- ☐ **Decide on consent, and make it specific.** If information relating to the representation will go into a self-learning tool, obtain informed consent that explains the tool, the risk and the benefit. A boilerplate engagement-letter clause "is not sufficient" (p. 7).
- ☐ **Check the engagement terms and communicate.** Follow any client instructions or outside-counsel guidelines on AI; disclose when asked or when the terms require it; consult the client when consent is needed, when the use bears on the fee, or when the output drives a significant decision (pp. 8–9).
- ☐ **Verify every output before it leaves your desk.** Confirm each cited authority exists and says what you claim, check the facts, and make sure controlling authority has not been left out (p. 10).
- ☐ **Supervise.** A written firm policy, training on the tools' limits and on secure data handling, and (one suggestion in the opinion) marking AI-generated materials as such in the file (pp. 10–11, fn 52).
- ☐ **Bill honestly.** Actual time, not time saved; revisit flat fees; pass tool costs through at cost after explaining the basis for the charge; do not bill for learning a tool you will use regularly (pp. 12–14).
- ☐ **Check your own jurisdiction and your court.** State opinions differ: Alaska's says lawyers "must fully anonymize" inputs to a self-learning tool outside a closed system unless the client consents; Texas and Pennsylvania add conditions of their own. Some courts now require a certification that cited authorities exist (Florida statewide from June 2026, and many individual judges by standing order). Check both before you file.