

## AI & GENERATIVE AI GUIDELINES

The chart below reflects the Task Force’s recommended guidelines when utilizing AI or generative AI tools (collectively, the “Tools”) in legal practice. We will update these guidelines periodically as the technology evolves.

TOPIC	GUIDANCE
<b>ATTORNEY COMPETENCE (RULE 1.1)</b>	<p><i>A lawyer should provide competent representation to a client.</i></p> <p>You have a duty to understand the benefits, risks and ethical implications associated with the Tools, including their use for communication, advertising, research, legal writing and investigation. Refer to <a href="#">Appendix B</a> for resources to better understand the Tools.</p>
<b>SCOPE OF REPRESENTATION (RULE 1.2)</b>	<p><i>A lawyer shall abide by a client’s decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued.</i></p> <p>Consider including in your client engagement letter a statement that the Tools may be utilized in your representation of the client and seek the client’s acknowledgement. Refer to <a href="#">Appendix C</a> for a sample language to include.</p>
<b>DILIGENCE (RULE 1.3)</b>	<p><i>A lawyer should act with reasonable diligence and promptness in representing a client.</i></p> <p>Consider whether use of the Tools will aid your effectiveness in representing your client.</p>
<b>COMMUNICATION (RULE 1.4)</b>	<p><i>A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.</i></p> <p>While the Tools can aid in generating documents or responses, you must ensure that you maintain direct and effective communication with your client and not rely solely on content generated from the Tools.</p>

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<b>FEES (RULE 1.5)</b>	<p><i>A lawyer shall not make an agreement for, charge, or collect an excessive or illegal fee or expense.</i></p> <p>If the Tools would make your work on behalf of a client substantially more efficient, then your use of (or failure to use) such Tools may be considered as a factor in determining whether the fees you charged for a given task or matter were reasonable. If you will add a “surcharge” (i.e., an amount above actual cost) when using specific Tools, then you should clearly state such charges in your engagement letter, <u>provided</u> that the total charge remains reasonable.</p>
<b>CONFIDENTIALITY (RULE 1.6)</b>	<p><i>A lawyer shall not knowingly reveal confidential information.</i></p> <p>When using the Tools, you must take precautions to protect sensitive client data and ensure that no Tool compromises confidentiality. Even if your client gives informed consent for you to input confidential information into a Tool, you should obtain assurance that the Tool provider will protect your client’s confidential information and will keep each of your client’s confidential information segregated. Further, you should periodically monitor the Tool provider to learn about any changes that might compromise confidential information.</p>
<b>CONFLICTS OF INTEREST (RULE 1.7)</b>	<p><i>A lawyer shall not represent a client if a reasonable lawyer would conclude that the representation will involve the lawyer in representing differing interests.</i></p> <p>Your use of the Tools in a particular case may potentially compromise your duty of loyalty under Rule 1.7, by creating a conflict of interest with another client. Rule 1.7 imposes a duty on you to identify, address and, if necessary, seek informed client consent for conflicts of interest that may result from your use of the Tools.</p>

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<b>SUPERVISORY RESPONSIBILITIES (RULE 5.1)</b>	<p><i>A lawyer with direct supervisory authority over another lawyer shall make reasonable efforts to ensure that the supervised lawyer conforms to the ethical rules.</i></p> <p>As a supervising lawyer, you have a duty to ensure that the lawyers for whom you have oversight observe the ethical rules when utilizing the Tools.</p>
<b>SUBORDINATE LAWYERS (RULE 5.2)</b>	<p><i>A lawyer is bound by the ethical rules notwithstanding that the lawyer acted at the direction of another person.</i></p> <p>If you as the subordinate lawyer utilize the Tools as directed by your supervising attorney, you are independently required to observe the ethical rules. All rules described in these guidelines apply equally to your conduct.</p>
<b>RESPONSIBILITY FOR NON-LAWYERS (RULE 5.3)</b>	<p><i>A law firm shall ensure that the work of nonlawyers who work for the firm is adequately supervised, as appropriate.</i></p> <p>If the Tools are used by non-lawyers or paralegals (or the Tools themselves are interpreted to be “non-lawyers”), you must supervise their use to ensure compliance with the ethical rules. Further, you must ensure that the work produced by the Tools is accurate and complete and does not disclose or create a risk of disclosing client confidential information without your client’s informed consent.</p>
<b>PROFESSIONAL INDEPENDENCE (RULE 5.4)</b>	<p><i>A lawyer shall not permit a person to direct or regulate the lawyer’s professional judgment in rendering legal services.</i></p> <p>While the Tools are not a “person,” you should refrain from relying exclusively on them or the output derived from them when providing legal advice and maintain your independent judgment on a matter.</p>
<b>UNAUTHORIZED PRACTICE OF LAW (UPL) (RULE 5.5)</b>	<p><i>A lawyer shall not aid a nonlawyer in the unauthorized practice of law.</i></p> <p>Understand that human oversight is necessary to avoid UPL issues when using the Tools, which should augment but not replace your legal work.</p>

TOPIC	GUIDANCE
<b>VOLUNTARY PRO BONO SERVICE (RULE 6.1)</b>	<p><i>Lawyers are strongly encouraged to provide pro bono legal services to benefit poor persons.</i></p> <p>The Tools may enable you to substantially increase the amount and scope of the pro bono legal services that you can offer. Considering Rule 6.1, you are encouraged to use the Tools to enhance your pro bono work.</p>
<b>ADVERTISING (RULE 7.1)</b>	<p><i>A lawyer or law firm shall not use or disseminate or participate in the use or dissemination of any advertisement that: (1) contains statements or claims that are false, deceptive or misleading; or (2) violates an ethical rule.</i></p> <p>You are responsible for all content that you post publicly, including content generated by the Tools. Further, you must be cautious when using the Tools for advertising or solicitation purposes to ensure that you comply with ethical guidelines regarding truthful and non-deceptive communication.</p>
<b>SOLICITATION AND RECOMMENDATION OF PROFESSIONAL EMPLOYMENT (RULE 7.3)</b>	<p><i>A lawyer shall not engage in solicitation by in-person or telephone contact, or by real-time or interactive computer-accessed communication . . .</i></p> <p>You may not use the Tools to automatically generate phone calls, chat board posts or other forms of solicitation, nor may you contract with another person to use the Tools for such purposes, as Rule 8.4 (Misconduct) prohibits you from using others to engage in conduct in which you personally could not engage.</p>