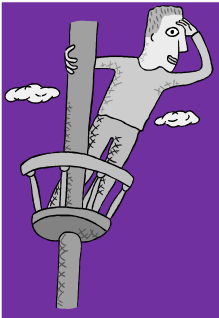


FROM THE LEGAL WRITING CLINIC
WRITING TIP OF THE WEEK

USE THE CORRECT TENSE



Knowing which verb tense to use when discussing the law, precedent cases, or client facts can be confusing at first. But as in other writing, use the present tense to describe facts or rules that exist now and the past tense for facts or events that have already happened.

Use the present tense to discuss the rule of law.

- A significant change in employment status constitutes an adverse employment action under Title VII. (rule of law exists in the present)

Use the past tense to discuss the facts of a precedent case and the court's holding or reasoning.

- In Sanchez, the school district transferred a teacher from one school to another, but her title, salary, benefits, duties, and responsibilities remained the same. (the transfer occurred in the past)
- The court held that her transfer did not constitute an adverse employment action. (court decided case in the past)
- The court reasoned that because she had the same job title, salary, benefits, duties, and responsibilities, her transfer was a mere lateral transfer rather than an adverse employment action. (court reasoned in the past)

Use the past tense for client facts that have already happened, but use the present tense for client facts that exist in the present.

- Mr. Smith worked in the branch office, where he represented adult clients in high-profile criminal cases. (Ms. Smith did these things in the past)
- The company's client list contains names, addresses, and phone numbers for all corporate clients. (list exists in the present)

For more information, see Anne Enquist & Laurel Currie Oates, Just Writing 184-89 (4th ed. 2013) and Laurel Currie Oates & Anne Enquist, The Legal Writing Handbook 620-23 (5th ed. 2010).