GENERATIVE AI POLICY DEVELOPMENT GUIDELINES FOR LAW FIRMS

These guidelines are designed to help your law firm define an approach to using generative AI (GAI) tools. Their purpose is to guide your firm in identifying areas where policies may be needed (e.g., confidentiality, ethics, data security, accuracy, and client communications) while leaving decisions about implementation to your discretion.

The areas covered in these guidelines are not exhaustive. Evaluate whether they apply to your firm's specific operations. Also, determine if additional topics or safeguards are necessary based on your firm's size, practice areas, client base, and professional obligations. These guidelines are intended as a practical framework for discussion, decision-making, and ongoing review as technology and professional standards evolve.

As an initial step, your law firm should review OSB Formal Ethics Opinion 2025-205 when developing GAI policies, as it provides important guidance on the ethical implications of using GAI tools in legal practice.

Note: These guidelines may be used in conjunction with the PLF's *Sample Generative AI Policy for Law Firms*, available on the PLF website, www.osbplf.org. Click on the Services tab > CLEs & Resources > Practice Aids > Firm Operations > Office Systems and Procedures.

1. **Define Scope and Applicability**

Defining scope ensures your firm knows which tools are acceptable, who is impacted, and who is responsible for oversight. Clear scope prevents confusion and supports consistent practices.

- Clarify which GAI tools are covered (e.g., ChatGPT, Bing Copilot, Claude, Gemini, Perplexity) so staff understand which are approved for firm use and can avoid adopting unvetted tools;
- Decide whether the guidelines apply to free/public tools, licensed enterprise tools, or both. Be aware that data privacy and security risks may differ by platform;
- Specify whether policies apply to firm-issued devices, personal devices, or both. This provides clarity on where and how the policy will be enforced; and
- Identify the internal party responsible for oversight (e.g., IT, Office Administrator, Supervising Attorney, Managing Partner, etc.) to assign accountability for approvals and updates.

2. **Tool Capabilities and Limitations**

Understanding what GAI can and cannot do helps prevent misuse, manage expectations, and reduce the risk of inaccurate output.

- Clarify the purpose, capabilities, and limitations of each tool so staff can distinguish between tasks suitable for GAI support and those requiring professional judgment;
- Specify that GAI output may not always be accurate, current, or unbiased. Staff must critically assess results before relying on them;
- Consider how input clarity, context, and relevance affect output quality. Remind staff that poorly phrased prompts can generate incorrect or irrelevant results; and
- Decide whether using GAI for certain tasks (e.g., legal research, client advice) should be prohibited or limited to maintain professional standards and accountability.

3. **Confidentiality and Privileged Information**

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Protecting client and firm data is a core responsibility. This section ensures sensitive information is not inadvertently shared with external GAI systems.

- Clarify rules regarding chat history, data retention, and anonymity to prevent accidental exposure of sensitive information;
- Specify types of information that should not be entered into GAI tools (e.g., client names, case details, or privileged materials);
- Consider whether anonymized or hypothetical examples should be utilized when using these tools to reduce the risk of sensitive data exposure; and
- Decide how to handle proprietary firm information to protect intellectual property and critical business data.

4. **Acceptable Use**

Establishing examples of appropriate use helps staff leverage GAI safely and effectively without exposing the firm to unnecessary risk.

- Clarify which tasks can be supported by GAI (e.g., editing, summarizing, brainstorming, refining language). Staff should know where GAI adds value without compromising accuracy or ethics.
- Examples of acceptable uses may include:
  - *Editing and Refining Documents*: Help improve clarity, grammar, style, and organization in internal documents;
  - *Summarizing or Condensing Information*: Create concise summaries of verified content, such as internal memos, reports, or other non-confidential materials;
  - *Brainstorming and Idea Generation*: Explore approaches, develop discussion points, or generate options for problem-solving; and
  - *Internal Training and Educational Support*: Assist in creating hypothetical examples, practice exercises, or learning materials, provided no confidential or client-specific information is included.

5. **Considerations for Prohibited or High-Risk Applications**

Identifying tasks that have the potential for elevated ethical, legal, or confidentiality risks helps the firm prevent misuse and protect client confidentiality.

- Clarify which tasks involve higher ethical, legal, or confidentiality risks (e.g., client advice, filings, sensitive data) to help staff make informed decisions about whether and how to use GAI;
- Specify that general-purpose GAI tools should not be used to generate legal citations, references, statutes, or authoritative sources, as these outputs may be fabricated or inaccurate; and
- Consider methods to prevent plagiarism or incorrect attribution. Ensure AI-generated content is used responsibly and does not violate intellectual property rights.

6. **Review, Verification, and Human Oversight**

Human review of AI-generated output ensures work-product will meet professional standards, maintain accuracy, and comply with ethical obligations.

- Detail how human review should be applied to GAI-generated content, including who reviews and at what stage, to maintain quality and accountability;
- Specify methods for verifying the accuracy, reliability, and integrity of output before internal or external use, including checking for bias, errors, or inaccuracy;
- Consider requiring a secondary, supervisory review for high-stakes or client-facing documents to ensure accountability for important materials;
- Decide whether a "human-in-the-loop" principle[1] should be applied firmwide, to ensure GAI is assisting rather than replacing human judgment; and
- Specify that GAI output is not a substitute for human judgment — all client-facing work, legal analysis, or recommendations must be reviewed and finalized by a human.

7. **Data Security and Privacy**

Strong data governance protects client confidentiality and reduces the risk of unauthorized access or breaches.

- Clarify that the use of GAI tools must follow the same rules as the firm's other data handling practices. Staff should know what is and is not allowed when entering or sharing information with GAI;
- Specify which types of information are safe to share with GAI tools to reduce the risk of accidental exposure of sensitive data;
- Consider technical safeguards to protect data when using GAI, such as only using secure devices or limiting who can access the GAI tool; and
- Establish procedures to follow if sensitive information is accidentally shared or exposed, so staff know what steps to take and whom to contact.

8. **Ethical and Professional Responsibility**

Lawyers have an ongoing duty to uphold ethical and professional standards. This section ensures GAI usage supports those obligations.

- Clarify how professional responsibility rules (e.g., competence, communication, attorney fees, confidentiality, supervision, and candor) apply when using GAI, so staff understand their responsibilities when GAI assists with their work;
- Specify circumstances where disclosure to clients or courts regarding GAI use may be appropriate to maintain transparency and avoid misleading. Refer to OSB Formal Ethics Opinion No. 2025-205 regarding when disclosure may be required; and
- Consider whether it may be useful to document how GAI contributed to work product, particularly for high-stakes or client-facing materials, to support accountability and ensure internal review.

9. **Training, Education, and Awareness**

Regular training ensures staff understand tool capabilities, risks, and best practices, reducing errors and promoting consistent use.

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[1] This principle refers to the practice of keeping a human actively involved whenever generative AI is used. AI may assist with drafting or analysis, but a qualified human must review the output, apply professional judgment, and make the final decisions. The human—not the AI—is responsible for the final work product.

- Clarify whether training will be offered or required so staff have a clear understanding of GAI capabilities and limitations;
- Consider ongoing learning about new tools, features, and risks to keep staff informed; and
- Decide how updates and best practices will be communicated internally to maintain awareness and compliance.

10. **Policy Review and Updates**

GAI technology and regulatory guidance are rapidly evolving. Periodic review keeps firm policies current and effective.

- Clarify how often policies should be reviewed and updated to maintain relevance;
- Assign responsibility for monitoring technological and regulatory developments to ensure timely policy updates; and
- Establish processes for communicating policy updates and obtaining staff acknowledgment to ensure awareness and accountability.

11. **Acknowledgment of Understanding**

- Decide whether and how staff should confirm understanding of the firm's GAI policies to reinforce accountability and awareness; and
- Consider using a brief acknowledgment form to document staff understanding for compliance tracking.

IMPORTANT NOTICES