



DISCUSSION GUIDE: TALKING TO YOUR LAW CLERKS ABOUT GENAI

This discussion guide offers a structured, flexible approach for having a conversation with your law clerks about the use of GenAI in chambers.

Most law clerks have used GenAI in their daily lives, and recent graduates likely used GenAI in law school. Whether you choose to prohibit, permit, or limit the use of GenAI in chambers, it is important to clearly communicate your expectations to staff.

Discussing the use of GenAI with law clerks enables:

- **Control:** You set the terms for how work is done in chambers
- **Clarity:** By setting clear expectations, law clerks have parameters about what is (and is not) permitted
- **Learning:** Open dialogue invites an exchange about what tools clerks have encountered and their experience with them

BEFORE THE CONVERSATION:

- Review the AI guidance developed by the Administrative Office of the U.S. Courts, the ethical guidelines issued by the Codes of Conduct Committee, any rules developed by your circuit or court, and the FJC AI Toolkit sections on AI Basics and Responsible Use
- Clarify your position: what will you permit/prohibit? Why?
- Develop a written chambers AI policy that you can refer to (see, *FJC AIT Chambers GenAI Policy Template*)
- Consider whether to require written acknowledgment of chambers policy



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PART 1: OPENING THE CONVERSATION

Conversations work best when you create conditions for an open exchange that invites dialogue and builds trust.

- Start with candor about your experience with GenAI:
 - Is this unfamiliar technology for you?
 - Are your views still evolving?
 - If you have strong views on the use of GenAI, explain
- Invite your law clerks to share their experience:
 - Approach this conversation from a place of curiosity, not judgment
 - What GenAI systems have they used?
 - If they have used GenAI, what do they think are the potential benefits and limitations of the technology for the judiciary, including concerns about its reliability

PART 2: COMMUNICATING THE CHAMBERS POLICY

Communicate your policy clearly

- If you have a written policy:
 - Provide a copy
 - Walk through it together, explaining the reasoning behind each provision
- If you have an oral policy:
 - State it explicitly, explaining what is prohibited, permitted, and why
 - Request the law clerk to write it down for your review so there is no ambiguity
- If you are still developing a policy:
 - Consider having this conversation with your law clerks, learning from their experience, and drafting a policy together

Essential topics to address:

- What is prohibited
- What uses (if any) are permitted
- Expectations about law clerk disclosure of their GenAI use
- Consequences for violations

PART 3: JUDICIARY AND COURT POLICIES

The Administrative Office and the Judicial Conference Codes of Conduct Committee have issued guidance about the use of GenAI; individual circuits and courts may have local rules on GenAI.

- Review the guidance issued by the federal judiciary and your court or circuit
- Explain to your law clerks how the chambers policy fills any gaps in this guidance
- Make clear that your chambers policy may be more restrictive and, if so, how



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PART 4: GUARDRAILS FOR PERMITTED USE

If you permit some GenAI use, it is important to communicate key guardrails

- GenAI must not be used for decision-making:
 - Clerks can use AI to facilitate their work, but should not outsource analysis
 - Legal conclusions must be theirs, not the AI's
- Verification:
 - Everything GenAI produces must be verified. AI makes mistakes.
 - Check for hallucinated citations, mischaracterized holdings, quotes taken out of context, and bias
 - Never rely on an AI case summary; read the cases
- Confidentiality:
 - Never upload sealed filings, personnel data, or other confidential information
 - Do not upload case-related content that is not public
- GenAI privacy settings and configuration:
 - Before using any GenAI tool, privacy settings must be configured correctly
 - Data sharing and model training must be turned off
- GenAI systems/tools:
 - Understand the differences between general-purpose systems (ChatGPT, Claude, Gemini) and legal AI systems (Westlaw CoCounsel, Lexis Protégé)
 - Specify which GenAI tools are approved in your chambers
 - If a law clerk finds a new tool, they should discuss it with you before they use it
- Disclose the use of GenAI:
 - Clerks should disclose when and how they use GenAI
 - When in doubt, disclose

PART 5: ATTORNEY SUBMISSIONS

Attorneys are increasingly using GenAI to draft filings, with varying degrees of care.

- Discuss attorney GenAI disclosure rules/orders that apply to your chambers and court
- Clarify the standard practice in your chambers for monitoring attorney submissions for hallucinations and other GenAI-related errors

PART 6: CLOSING THE CONVERSATION

Wrap up the conversation by reinforcing key points and inviting ongoing dialogue:

- Note the rapid pace at which GenAI technology is evolving
- Encourage law clerks to stay informed about changing judiciary guidance