

# Agenda

## Supreme Court Advisory Committee Utah Rules of Civil Procedure

March 23, 2022  
4:00 to 6:00 p.m.

[Via Webex](#)

Welcome and approval of minutes	Tab 1	Lauren DiFrancesco
Rules 7 and 101 – Page Limits to Word Limits	Tab 2	Trevor Lee
Rule 45 – committee note, foreign subpoenas, and additional proposals	Tab 3	Tonya Wright and Tim Pack
Rule 26 – Disclosure of third party financing		Judge Stone
Rule 30(b)(6) – following change to federal rule in December, need Subcommittee.		Judge Holmberg
Legal Terminology	Tab 4	Susan Vogel
HB0344 and Rule 26	Tab 5	Lauren / Stacy
<i>Consent agenda</i> - None		
<b>Verify Pipeline items:</b> <ul style="list-style-type: none"><li>• Rule 26(a)(1)(A)(ii) (Tim Pack)</li><li>• Rules 7B(i), 109 and 7A(h) (Judge Stone and Judge Mettler)</li><li>• Court Notices (Susan Vogel and Loni Page)</li></ul>		Lauren DiFrancesco

**Next Meeting: April 27**

Future Meetings: May 25, June 22, July 27, August 24, September 28, October 26, November 23, December 28

**Meeting Schedule:** 4<sup>th</sup> Wednesday at 4pm unless otherwise scheduled

**Committee Webpage:** <http://www.utcourts.gov/committees/civproc/>

# Tab 1

**UTAH SUPREME COURT ADVISORY COMMITTEE  
ON RULES OF CIVIL PROCEDURE**

**Summary Minutes – February 23, 2022**

**DUE TO THE COVID-19 PANDEMIC AND PUBLIC HEALTH EMERGENCY  
THIS MEETING WAS CONDUCTED ELECTRONICALLY VIA WEBEX**

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<b>Committee members</b>	<b>Present</b>	<b>Excused</b>	<b>Guests/Staff Present</b>
Robert Adler		<b>X</b>	Stacy Haacke, Staff
Rod N. Andreason	<b>X</b>		Crystal Powell, Recording Secretary
Judge James T. Blanch		<b>X</b>	Keri Sargeant
Lauren DiFrancesco, Chair	<b>X</b>		Nick Stiles
Judge Kent Holmberg	<b>X</b>		
James Hunnicutt	<b>X</b>		
Judge Linda Jones		<b>X</b>	
Trevor Lee		<b>X</b>	
Ash McMurray	<b>X</b>		
Judge Amber M. Mettler	<b>X</b>		
Kim Neville	<b>X</b>		
Timothy Pack	<b>X</b>		
Loni Page	<b>X</b>		
Bryan Pattison	<b>X</b>		
James Peterson		<b>X</b>	
Judge Laura Scott	<b>X</b>		
Leslie W. Slaugh	<b>X</b>		
Paul Stancil		<b>X</b>	
Judge Clay Stucki		<b>X</b>	
Judge Andrew H. Stone	<b>X</b>		
Justin T. Toth			
Susan Vogel	<b>X</b>		
Tonya Wright	<b>X</b>		

**(1) MEMBER INTRODUCTIONS**

The meeting started at 4:01 p.m. after forming a quorum. Ms. Lauren DiFrancesco welcomed the Committee and guests to the meeting. Ms. DiFrancesco informed the Committee that Mr. Leslie Slaugh will be resigning from the Committee.

**(2) APPROVAL OF MINUTES**

Ms. Lauren DiFrancesco asked for approval of the Minutes subject to minor amendments noted by the Minutes subcommittee. Jim Hunnicutt moved to adopt the minutes as amended. Ms. Tonya Wright seconded. The minutes were unanimously approved.

**(3) Rule 26 Retrospective Study**

Mr. Nick Stiles presented on a proposal for a 10 year retrospective study of Rule 26 to be done by the State Justice Institute in collaboration with the National Center for State Courts. He noted that the State Justice Institute reached out to the Budget Committee with a grant request to help fund the study. The goal of the study would be towards making the discovery process easier. Judge Holmberg noted that the National Center for State Courts organization is reputable and he would support their effort. Ms. Susan Vogel would support it as well on behalf of self-represented parties who would really benefit from the project if it leads to the discovery process being easier.

**(4) RULES 5 AND 76**

Rules 5 and 76 have come back from public comment. The committee discussed the comments for each.

*Rule 5*

Ms. DiFrancesco related Judge McCullagh's comments to the Committee noting that he would like for it to be explicit in the rule that eliminating certificates would only refer to when both parties have accounts with e-filing. Ms. DiFrancesco questioned whether the change is necessary given the rollout of public access to exchange and questioned whether the rollout included general access to e-filing. Ms. Vogel noted that the new system is being rolled out but it is impossible to assume that individuals can receive Rule 5 service through Xchange or through Mycase. Mr. Slaugh noted the rule in line 42-43 states that a person may only use e-filing to serve where the person being served has an e-filing account. He questioned whether there would ever be a situation in which the scenario arises where service through e-filing is effectuated when only one party has an e-filing account. Mr. Trevor Lee wondered if it would arise in a situation in which one party is pro-se and does not have an electronic filing account. Mr. Slaugh noted that that is the exact situation that the rule covers.

The question was raised whether there was any confusion between the reference to electronic filing and the pro se avenues for filing documents. Ms. Vogel explained that that is what she wanted to clarify that the court electronic filing system does not include court Xchange and Mycase which is typically used by pro-se parties. Ms. DiFrancesco clarified that Xchange can't be used to file; but is used only to access public documents that have been filed. Ms. Vogel noted that with some of the accommodations made during the pandemic such as being able to email some documents to the court, self-represented persons may easily get confused with what "filing" with the court entails. Ms. Vogel added also that there are also new companies now that are providing forms at a premium which are nominally available on OCAP and using terms such as filing online; and wondered if a clarification is necessary that e-filing does not include self-represented parties' use of Xchange and Mycase.

Ms. DiFrancesco questioned whether a pro se party filing by email would need to do a certificate of service and asked for suggestions on how to make that clear. Mr. Slaugh suggest the reference be to an electronic filing account rather than electronic filing system. Ms. DiFrancesco questioned what a typical motion service certificate looks like right now. Ms. Vogel explained that it is the basic certificate of service like in the olden days. Ms. DiFrancesco suggested the Committee takes another look at rule 5 to see how the various filing systems can be made consistent against Rule 5.

Mr. Slaugh questioned whether a document emailed to the court and placed on the court's electronic filing service provider counts as service. Ms. DiFrancesco asked whether a certificate of service is needed in that scenario as the party being served receives the notice from the court. Ms. Page explained that anytime the clerk docket something into Corus (the courts filing system) or change a hearing, the system sends out an email notice to all the parties at the end of the day but it does not include a PDF of the document. Judge Stone noted that the docket notice is not the same as service or the same as what an e-filing participant gets when something is filed in the case. Ms. DiFrancesco suggested it is best to look at the rule again as the Committee is having different interpretations of it. Ms. Vogel, Ms. Page, and Ms. Wright volunteered to work on a subcommittee to take a closer look at Rule 5.

### *Rule 76*

Judge McCullagh offered that the qualifier "civil" could be deleted as there are also criminal civil stalking injunctions. Ms. Vogel suggested that there are other laws/rules that protect information that the rule could reflect such as in UJA 4-202; and suggested changing the rule to say "unless other court order, rule, or law provides otherwise." Mr. Slaugh noted he thinks the rule just regulates what is publicly available and doesn't address whether you have to notify the other party of a change of address. Judge Stone explained that protected information is in some instances still provided to the court, but it is protected from the other party. Ms. Vogel questioned whether there was any law that specifically provides protection from sharing the information with the other party. Ms. Stacey Haacke noted that the only law that comes to her mind is the protective order law for child protective orders where the address of the protected party is not provided to the respondent. Ms. DiFrancesco asked whether a rule of judicial procedure incorporates this law. Ms. Vogel expressed her concern that in

OCAP it asks the individual if they are in danger if their address/contact information is provided and allows the party to omit the information but this new rule could create unrest that they have to provide that information. After an in depth discussion on the wording, civil protection orders, and criminal protective orders, the Committee agreed to add “unless a protective order, stalking injunction, or other order provides otherwise.” Judge Stone moved to adopt the amendment. Mr. Rod Andreason seconded it. The amendment unanimously passed.

## **(5) RULES 45**

### *Rule 45 (a) Forms, Issuance.*

Ms. Wright began the discussion explaining that rule 45 has caused some confusion among the Licensed Paralegal Practitioners (LLPs) where it explicitly provides who may sign subpoenas. She noted that Rule 86 is helpful because it states that anytime the word attorney or counsel appears for permission to sign documents, LPPs may also do so. However Rule 45 provides explicitly who may sign a subpoena. Some LPPs opt to submit the court form subpoena to the judge instead of signing it. Ms. Wright proposes to add permissive language to Rule 45.

Mr. Slaugh questioned whether LLPs are still disallowed from sending out discovery requests. Ms. Wright answered that there is no rule that the LLP cannot conduct the discovery if a form is available and relates to the practice area; but they cannot create documents for or about discovery. Mr. Slaugh expressed a concern about having to amend even more rules that deal with the functions that LLPs may undertake but have not explicitly stated so, especially when Rule 86 covers the situation. Mr. Hunnicutt questioned whether the change needed to be made in Rule 86 (b) to include signing subpoenas. Ms. Wright noted that there is comfort in Rule 86 (b) but it has not helped with the confusion among the LLPs especially those who have been called out on it by counsel. Judge Holmberg suggested that a committee note might also clarify the confusion. Mr. Slaugh and Mr. Andreason also agreed that a change in the rule may not fix the issue, but a committee note might.

Ms. Vogel suggested an amendment to other language such as changing “issue” to “sign,” “command” to “order,” and “tender” to give,” to make the language more understandable. The committee discussed the legal and plain meaning of the words “issue” vs “sign,” command, and order. Mr. Hunnicutt expressed that something can be signed but not issued. Mr. Slaugh noted that signing the subpoena is issuing it, but service of the subpoena effectuates it. Judge Stone explained that the subpoena is a command of court once served as they are issued by attorneys as officers of the court exercising a court function which is enforceable as an order and that the word “issues” relates to the court function being performed.

The Committee decided that Ms. Wright will examine the rule more closely and present a committee note for consideration at the next meeting.

### *Rule 45 (e) (3). Objection*

Mr. Tim Pack guided the discussion on Rule 45 (e) (3). He made the suggestion to delete “under Rule 37” to make it clear that all someone has to do to object to a subpoena is to serve the objection and not for example have to file a statement of discovery issues as an objection. He explained that, as the rule stands, it suggests that a person has to do something affirmatively such as file something with the court where as other places in the rule just requires an objection to be served. Mr. Slauch noted that it seems to him that the rule was aimed at lessening the burden on the person being subpoenaed where they only need to object instead of seeking the services of an attorney. Mr. Pack suggested that the rule be changed then to say serve a written objection. Ms. DiFrancesco suggested a change to Rule 45 (e)(4)(A) add “in writing and made before the date of compliance.” Ms. Powell added that Rule 45 governs subpoenas made pursuant to Rule of Criminal Procedure 14 and mandating a written objection may limit all the available avenues for a victim to object to subpoenas to their records. Mr. Pack expressed the concern of having an individual simply calling up a party to object. He also noted that Rule 45 (e)(4)(B) implies that the objection is in writing. Judge Stone agreed with the suggestion given by Ms. DiFrancesco. Judge Stone moved for the amendment. Mr. Andreason seconded. The amendment unanimously passed.

### *Rule 45(k). Foreign Subpoenas.*

Mr. Tim Pack suggested to add procedures for foreign subpoenas. He suggested a draft rule and noted the language was influenced by the Oregon Rule of Civil Procedure. Ms. DiFrancesco questioned whether a motion to the Utah court needs to accompany the foreign subpoena. Mr. Pack explained that a new case must be opened and then the subpoena is filed with the Clerk who then issues it. Ms. DiFrancesco questioned whether there was a way to not include a reference to the statute in 45 (k) (2). Members of the committee suggested various ways such as naming the statute that the code refers to or citing the act in its full name. The Committee further discussed the specific language of the rule, specifically as it refers to foreign territories, states and territories of the United States. Mr. Pack expressed that he appreciated the comments and discussion to help guide a second draft. Ms. Haacke will send the draft language discussed to Mr. Pack for further revision.

## **(9) ADJOURNMENT.**

The next meeting will be on March 23, 2022. The Chair thanked everyone for their time and effort and wished everyone a great month. The meeting adjourned at 6:00 p.m.

# Tab 2



**Rule 7. Pleadings allowed; motions, memoranda, hearings, orders.**

**(a) Pleadings.** Only these pleadings are allowed:

- (1) a complaint;
- (2) an answer to a complaint;
- (3) an answer to a counterclaim designated as a counterclaim;
- (4) an answer to a crossclaim;
- (5) a third-party complaint;
- (6) an answer to a third-party complaint; and
- (7) a reply to an answer if ordered by the court.

**(b) Motions.** A request for an order must be made by motion. The motion must be in writing unless made during a hearing or trial, must state the relief requested, and must state the grounds for the relief requested. Except for the following, a motion must be made in accordance with this rule.

- (1) A motion, other than a motion described in paragraphs (b)(2), (b)(3) or (b)(4), made in proceedings before a court commissioner must follow Rule [101](#).
- (2) A request under [Rule 26](#) for extraordinary discovery must follow Rule [37\(a\)](#).
- (3) A request under Rule [37](#) for a protective order or for an order compelling disclosure or discovery – but not a motion for sanctions – must follow Rule [37\(a\)](#).
- (4) A request under Rule [45](#) to quash a subpoena must follow Rule [37\(a\)](#).
- (5) A motion for summary judgment must follow the procedures of this rule as supplemented by the requirements of Rule [56](#).

**(c) Name and content of motion.**

- (1) The rules governing captions and other matters of form in pleadings apply to motions and other papers.
- (2) **Caution language.** For all dispositive motions, the motion must include the following caution language at the top right corner of the first page, in bold type: **This motion requires you to respond. Please see the Notice to Responding Party.**
- (3) **Bilingual notice.** All motions must include or attach the bilingual Notice to Responding Party approved by the Judicial Council.
- (4) **Failure to include caution language and notice.** Failure to include the caution language in paragraph (c)(2) or the bilingual notice in paragraph (c)(3) may be

grounds to continue the hearing on the motion, or may provide the non-moving party with a basis under Rule 60(b) for excusable neglect to set aside the order resulting from the motion. Parties may opt out of receiving the notices set forth in paragraphs (c)(2) and (c)(3) while represented by counsel.

(5) **Title of motion.** The moving party must title the motion substantially as: “Motion [short phrase describing the relief requested].”

(6) **Contents of motion.** The motion must include the supporting memorandum. The motion must include under appropriate headings and in the following order:

(A) a concise statement of the relief requested and the grounds for the relief requested; and

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party and argument citing authority for the relief requested.

(7) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the motion.

(8) **Length of motion.** If the motion is for relief authorized by Rule [12\(b\)](#) or [12\(c\)](#), Rule [56](#) or Rule [65A](#), the motion may not exceed [10,000 words](#), [or, in the alternative](#), 25 pages, ~~not counting the attachments~~, unless a longer motion is permitted by the court. Other motions may not exceed [6,000 words](#), [or, in the alternative](#), 15 pages, ~~not counting the attachments~~, unless a longer motion is permitted by the court.

**(d) Name and content of memorandum opposing the motion.**

(1) A nonmoving party may file a memorandum opposing the motion within 14 days after the motion is filed. The nonmoving party must title the memorandum substantially as: “Memorandum opposing motion [short phrase describing the relief requested].” The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the party’s preferred disposition of the motion and the grounds supporting that disposition;

(B) one or more sections that include a concise statement of the relevant facts claimed by the nonmoving party and argument citing authority for that disposition; and

(C) objections to evidence in the motion, citing authority for the objection.

(2) If the non-moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(3) If the motion is for relief authorized by Rule 12(b) or 12(c), Rule 56 or Rule 65A, the memorandum opposing the motion may not exceed 10,000 words, or in the alternative, 25 pages, ~~not counting the attachments~~, unless a longer memorandum is permitted by the court. Other opposing memoranda may not exceed 6,000 words, or in the alternative, 15 pages, ~~not counting the attachments~~, unless a longer memorandum is permitted by the court.

**(e) Name and content of reply memorandum.**

(1) Within 7 days after the memorandum opposing the motion is filed, the moving party may file a reply memorandum, which must be limited to rebuttal of new matters raised in the memorandum opposing the motion. The moving party must title the memorandum substantially as "Reply memorandum supporting motion [short phrase describing the relief requested]." The memorandum must include under appropriate headings and in the following order:

(A) a concise statement of the new matter raised in the memorandum opposing the motion;

(B) one or more sections that include a concise statement of the relevant facts claimed by the moving party not previously set forth that respond to the opposing party's statement of facts and argument citing authority rebutting the new matter;

(C) objections to evidence in the memorandum opposing the motion, citing authority for the objection; and

(D) response to objections made in the memorandum opposing the motion, citing authority for the response.

(2) If the moving party cites documents, interrogatory answers, deposition testimony, or other discovery materials, relevant portions of those materials must be attached to or submitted with the memorandum.

(3) If the motion is for relief authorized by Rule 12(b) or 12(c), Rule 56 or Rule 65A, the reply memorandum may not exceed 6,000 words, or 15 pages, ~~not counting the attachments~~, unless a longer memorandum is permitted by the court. Other reply memoranda may not exceed 4,000 words, or 10 pages, ~~not counting the attachments~~, unless a longer memorandum is permitted by the court.

**(f) Objection to evidence in the reply memorandum; response.** If the reply memorandum includes an objection to evidence, the nonmoving party may file a response to the objection no later than 7 days after the reply memorandum is filed. If the reply memorandum includes evidence not previously set forth, the nonmoving party may file an objection to the evidence no later than 7 days after the reply memorandum is filed, and the moving party may file a response to the objection no later than 7 days after the objection is filed. The objection or response may not be more than [1,200 words, or](#) 3 pages.

**(g) Request to submit for decision.** When briefing is complete or the time for briefing has expired, either party may file a “Request to Submit for Decision,” but, if no party files a request, the motion will not be submitted for decision. The request to submit for decision must state whether a hearing has been requested and the dates on which the following documents were filed:

(1) the motion;

(2) the memorandum opposing the motion, if any;

(3) the reply memorandum, if any; and

(g)(4) the response to objections in the reply memorandum, if any.

**(h) Hearings.** The court may hold a hearing on any motion. A party may request a hearing in the motion, in a memorandum or in the request to submit for decision. A request for hearing must be separately identified in the caption of the document containing the request. The court must grant a request for a hearing on a motion under Rule [56](#) or a motion that would dispose of the action or any claim or defense in the action unless the court finds that the motion or opposition to the motion is frivolous or the issue has been authoritatively decided. A motion hearing may be held remotely, consistent with the safeguards in Rule 43(b).

**(i) Notice of supplemental authority.** A party may file notice of citation to significant authority that comes to the party’s attention after the party’s motion or memorandum has been filed or after oral argument but before decision. The notice may not exceed [800 words, or](#) 2 pages. The notice must state the citation to the authority, the page of the motion or memorandum or the point orally argued to which the authority applies, and the reason the authority is relevant. Any other party may promptly file a response, but the court may act on the motion without waiting for a response. The response may not exceed [800 words, or](#) 2 pages.

**(j) Orders.**

**(1) Decision complete when signed; entered when recorded.** However designated, the court's decision on a motion is complete when signed by the judge. The decision is entered when recorded in the docket.

**(2) Preparing and serving a proposed order.** Within 14 days of being directed by the court to prepare a proposed order confirming the court's decision, a party must serve the proposed order on the other parties for review and approval as to form. If the party directed to prepare a proposed order fails to timely serve the order, any other party may prepare a proposed order confirming the court's decision and serve the proposed order on the other parties for review and approval as to form.

**(3) Effect of approval as to form.** A party's approval as to form of a proposed order certifies that the proposed order accurately reflects the court's decision. Approval as to form does not waive objections to the substance of the order.

**(4) Objecting to a proposed order.** A party may object to the form of the proposed order by filing an objection within 7 days after the order is served.

**(5) Filing proposed order.** The party preparing a proposed order must file it:

(A) after all other parties have approved the form of the order (The party preparing the proposed order must indicate the means by which approval was received: in person; by telephone; by signature; by email; etc.);

(B) after the time to object to the form of the order has expired (The party preparing the proposed order must also file a certificate of service of the proposed order.); or

(C) within 7 days after a party has objected to the form of the order (The party preparing the proposed order may also file a response to the objection.).

**(6) Proposed order before decision prohibited; exceptions.** A party may not file a proposed order concurrently with a motion or a memorandum or a request to submit for decision, but a proposed order must be filed with:

(A) a stipulated motion;

(B) a motion that can be acted on without waiting for a response;

(C) an ex parte motion;

(D) a statement of discovery issues under Rule [37\(a\)](#); and

(E) the request to submit for decision a motion in which a memorandum opposing the motion has not been filed.

**(7) Orders entered without a response; ex parte orders.** An order entered on a motion under paragraph (l) or (m) can be vacated or modified by the judge who made it with or without notice.

**(8) Order to pay money.** An order to pay money can be enforced in the same manner as if it were a judgment.

**(k) Stipulated motions.** A party seeking relief that has been agreed to by the other parties may file a stipulated motion which must:

(1) be titled substantially as: “Stipulated motion [short phrase describing the relief requested]”;

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) include a signed stipulation in or attached to the motion and;

(4) be accompanied by a request to submit for decision and a proposed order that has been approved by the other parties.

**(l) Motions that may be acted on without waiting for a response.**

(1) The court may act on the following motions without waiting for a response:

(A) motion to permit an over-length motion or memorandum;

(B) motion for an extension of time if filed before the expiration of time;

(C) motion to appear pro hac vice; and

(D) other similar motions.

(2) A motion that can be acted on without waiting for a response must:

(A) be titled as a regular motion;

(B) include a concise statement of the relief requested and the grounds for the relief requested;

(C) cite the statute or rule authorizing the motion to be acted on without waiting for a response; and

(D) be accompanied by a request to submit for decision and a proposed order.

**(m) Ex parte motions.** If a statute or rule permits a motion to be filed without serving the motion on the other parties, the party seeking relief may file an ex parte motion which must:

(1) be titled substantially as: “Ex parte motion [short phrase describing the relief requested]”;

(2) include a concise statement of the relief requested and the grounds for the relief requested;

(3) cite the statute or rule authorizing the ex parte motion;

(4) be accompanied by a request to submit for decision and a proposed order.

**(n) Motion in opposing memorandum or reply memorandum prohibited.** A party may not make a motion in a memorandum opposing a motion or in a reply memorandum. A party who objects to evidence in another party's motion or memorandum may not move to strike that evidence. Instead, the party must include in the subsequent memorandum an objection to the evidence.

**(o) Overlength motion or memorandum.** The court may permit a party to file an overlength motion or memorandum upon a showing of good cause. An overlength motion or memorandum must include a table of contents and a table of authorities with page references.

**(p) Limited statement of facts and authority.** No statement of facts and legal authorities beyond the concise statement of the relief requested and the grounds for the relief requested required in paragraph (c) is required for the following motions:

(1) motion to allow an over-length motion or memorandum;

(2) motion to extend the time to perform an act, if the motion is filed before the time to perform the act has expired;

(3) motion to continue a hearing;

(4) motion to appoint a guardian ad litem;

(5) motion to substitute parties;

(6) motion to refer the action to or withdraw it from alternative dispute resolution under Rule 4-510.05;

(7) motion for a conference under Rule [16](#); and

(8) motion to approve a stipulation of the parties.

**(q) Word and page limits.** The word and page limits in this rule exclude the following: caption, table of contents, table of authorities, signature block, certificate of service, and exhibits. Any filer relying on the word limits in this rule must include a certification that the document complies with the applicable word limit and must state the number of words in the document.

232 Effective May 1, 2021

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1 **Rule 101. Motion practice before court commissioners.**

2 **(a) Written motion required.** An application to a court commissioner for an  
3 order must be by motion which, unless made during a hearing, must be made  
4 in accordance with this rule.

5 (1) A motion must be in writing and state succinctly and with  
6 particularity the relief sought and the grounds for the relief sought. Any  
7 evidence necessary to support the moving party's position must be  
8 presented by way of one or more affidavits or declarations or other  
9 admissible evidence. The motion may also include a supporting  
10 memorandum.

11 (2) All motions must provide the bilingual Notice to Responding Party  
12 approved by the Judicial Council.

13 (3) Each motion to a court commissioner must include the following  
14 caution language at the top right corner of the first page, in bold  
15 type: **This motion will be decided by the court commissioner at an**  
16 **upcoming hearing. If you do not appear at the hearing, the Court**  
17 **might make a decision against you without your input. In addition,**  
18 **you may file a written response at least 14 days before the hearing.**

19 (4) Failure to provide the bilingual Notice to Responding Party or to include  
20 the caution language may provide the non-moving party with a basis under  
21 Rule 60(b) for excusable neglect to set aside any resulting order or  
22 judgment. **(b) Time to file and serve.** The moving party must file the motion  
23 and any supporting papers with the clerk of the court and obtain a hearing  
24 date and time. The moving party must serve the responding party with the  
25 motion and supporting papers, together with notice of the hearing at least 28  
26 days before the hearing. If service is more than 90 days after the date of entry  
27 of the most recent appealable order, service may not be made through  
28 counsel.

29 **(c) Response.** Any other party may file a response, consisting of any  
30 responsive memorandum, affidavit(s) or declaration(s). The response must be  
31 filed and served on the moving party at least 14 days before the hearing.

32 **(d) Reply.** The moving party may file a reply, consisting of any reply  
33 memorandum, affidavit(s) or declaration(s). The reply must be filed and

served on the responding party at least 7 days before the hearing. The contents of the reply must be limited to rebuttal of new matters raised in the response to the motion.

**(e) Counter motion.** Responding to a motion is not sufficient to grant relief to the responding party. A responding party may request affirmative relief by way of a counter motion. A counter motion need not be limited to the subject matter of the original motion. All of the provisions of this rule apply to counter motions except that a counter motion must be filed and served with the response. Any response to the counter motion must be filed and served no later than the reply to the motion. Any reply to the response to the counter motion must be filed and served at least 3 business days before the hearing. The reply must be served in a manner that will cause the reply to be actually received by the party responding to the counter motion (i.e. hand-delivery, fax or other electronic delivery as allowed by rule or agreed by the parties) at least 3 business days before the hearing. A separate notice of hearing on counter motions is not required.

**(f) Necessary documentation.** Motions and responses regarding temporary orders concerning alimony, child support, division of debts, possession or disposition of assets, or litigation expenses, must be accompanied by verified financial declarations with documentary income verification attached as exhibits, unless financial declarations and documentation are already in the court's file and remain current. Attachments for motions and responses regarding child support and child custody must also include a child support worksheet.

**(g) No other papers.** No moving or responding papers other than those specified in this rule are permitted.

**(h) Exhibits; objection to failure to attach.**

(1) Except as provided in paragraph (h)(3) of this rule, any documents such as tax returns, bank statements, receipts, photographs, correspondence, calendars, medical records, forms, or photographs must be supplied to the court as exhibits to one or more affidavits (as appropriate) establishing the necessary foundational requirements. Copies of court papers such as decrees, orders, minute entries, motions, or affidavits, already in the court's case file, may not be filed as exhibits. Court papers from cases other than

that before the court, such as protective orders, prior divorce decrees, criminal orders, information or dockets, and juvenile court orders (to the extent the law does not prohibit their filing), may be submitted as exhibits.

(2) If papers or exhibits referred to in a motion or necessary to support the moving party's position are not served with the motion, the responding party may file and serve an objection to the defect with the response. If papers or exhibits referred to in the response or necessary to support the responding party's position are not served with the response, the moving party may file and serve an objection to the defect with the reply. The defect must be cured within 2 business days after notice of the defect or at least 3 business days before the hearing, whichever is earlier.

(3) Voluminous exhibits which cannot conveniently be examined in court may not be filed as exhibits, but the contents of such documents may be presented in the form of a summary, chart or calculation under Rule 1006 of the Utah Rules of Evidence. Unless they have been previously supplied through discovery or otherwise and are readily identifiable, copies of any such voluminous documents must be supplied to the other parties at the time of the filing of the summary, chart or calculation. The originals or duplicates of the documents must be available at the hearing for examination by the parties and the commissioner. Collections of documents, such as bank statements, checks, receipts, medical records, photographs, e-mails, calendars and journal entries that collectively exceed ten pages in length must be presented in summary form. Individual documents with specific legal significance, such as tax returns, appraisals, financial statements and reports prepared by an accountant, wills, trust documents, contracts, or settlement agreements must be submitted in their entirety.

**(i) Length.** Initial and responding memoranda may not exceed [4,000 words, or](#) 10 pages<sub>2</sub> of argument without leave of the court. Reply memoranda may not exceed [2000 words, or](#) 5 pages<sub>2</sub> of argument without leave of the court. The total number of pages submitted to the court by each party may not exceed 25 pages, including affidavits, attachments and summaries, but excluding financial declarations and income verification. The court commissioner may permit the party to file an over-length memorandum upon ex parte application and showing of good cause. [The word and page limits exclude the](#)

103 following: caption, table of contents, table of authorities, signature block, certificate of  
104 service, and exhibits. Any filer relying on the word limits in this rule must include a  
105 certification that the document complies with the applicable word limit and must state  
106 the number of words in the document.

107 **(j) Late filings; sanctions.** If a party files or serves papers beyond the time  
108 required in this rule, the court commissioner may hold or continue the  
109 hearing, reject the papers, impose costs and attorney fees caused by the failure  
110 and by the continuance, and impose other sanctions as appropriate.

111 **(k) Limit on order to show cause.** An application to the court for an order to  
112 show cause may be made only for enforcement of an existing order or for  
113 sanctions for violating an existing order. An application for an order to show  
114 cause must be supported by affidavit or other evidence sufficient to show  
115 cause to believe a party has violated a court order.

116 **(l) Hearings.**

117 (1) The court commissioner may not hold a hearing on a motion for  
118 temporary orders before the deadline for an appearance by the respondent  
119 under Rule 12.

120 (2) Unless the court commissioner specifically requires otherwise, when the  
121 statement of a person is set forth in an affidavit, declaration or other  
122 document accepted by the commissioner, that person need not be present  
123 at the hearing. The statements of any person not set forth in an affidavit,  
124 declaration or other acceptable document may not be presented by proffer  
125 unless the person is present at the hearing and the commissioner finds that  
126 fairness requires its admission.

127 **(m) Motions to judge.** The following motions must be to the judge to whom  
128 the case is assigned: motion for alternative service; motion to waive 30-day  
129 waiting period; motion to waive divorce education class; motion for leave to  
130 withdraw after a case has been certified as ready for trial; and motions in  
131 limine. A court may provide that other motions be considered by the judge.

132 **(n) Objection to court commissioner's recommendation.** A recommendation  
133 of a court commissioner is the order of the court until modified by the court.  
134 A party may object to the recommendation by filing an objection under Rule  
135 108.

136

137    Effective May 1, 2021

138

# Tab 3

**Rule 45. Subpoena.**

**(a) Form; issuance.**

(1) Every subpoena shall:

(A) issue from the court in which the action is pending;

(B) state the title and case number of the action, the name of the court from which it is issued, and the name and address of the party or attorney responsible for issuing the subpoena;

(C) command each person to whom it is directed

(i) to appear and give testimony at a trial, hearing or deposition, or

(ii) to appear and produce for inspection, copying, testing or sampling documents, electronically stored information or tangible things in the possession, custody or control of that person, or

(iii) to copy documents or electronically stored information in the possession, custody or control of that person and mail or deliver the copies to the party or attorney responsible for issuing the subpoena before a date certain, or

(iv) to appear and to permit inspection of premises;

(D) if an appearance is required, give notice of the date, time, and place for the appearance and, if remote transmission is requested, instructions for participation and whom to contact if there are technical difficulties; and

(E) include a notice to persons served with a subpoena in a form substantially similar to the approved subpoena form. A subpoena may specify the form or forms in which electronically stored information is to be produced.

(2) The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service. An attorney admitted to practice in Utah may issue and sign a subpoena as an officer of the court.

**(b) Service; fees; prior notice.**

(1) A subpoena may be served by any person who is at least 18 years of age

and not a party to the case. Service of a subpoena upon the person to whom it is directed shall be made as provided in Rule 4(d).

(2) If the subpoena commands a person's appearance, the party or attorney responsible for issuing the subpoena shall tender with the subpoena the fees for one day's attendance and the mileage allowed by law. When the subpoena is issued on behalf of the United States, or this state, or any officer or agency of either, fees and mileage need not be tendered.

(3) If the subpoena commands a person to copy and mail or deliver documents or electronically stored information, to produce documents, electronically stored information or tangible things for inspection, copying, testing or sampling or to permit inspection of premises, the party or attorney responsible for issuing the subpoena shall serve each party with the subpoena by delivery or other method of actual notice before serving the subpoena.

**(c) Appearance; resident; non-resident.**

(1) A person who resides in this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information or tangible things, or to permit inspection of premises only in the county in which the person resides, is employed, or transacts business in person, or at such other place as the court may order.

(2) A person who does not reside in this state but who is served within this state may be required to appear:

(A) at a trial or hearing in the county in which the case is pending; and

(B) at a deposition, or to produce documents, electronically stored information or tangible things, or to permit inspection of premises only in the county in which the person is served or at such other place as the court may order.

(d) Payment of production or copying costs. The party or attorney responsible for issuing the subpoena shall pay the reasonable cost of producing or copying documents, electronically stored information, or tangible things. Upon the request of any other party and the payment of reasonable costs, the party or attorney responsible for issuing the subpoena shall provide to the requesting



party copies of all documents, electronically stored information or tangible things obtained in response to the subpoena or shall make the tangible things available for inspection.

**(e) Protection of persons subject to subpoenas; objection.**

(1) The party or attorney responsible for issuing a subpoena shall take reasonable steps to avoid imposing an undue burden or expense on the person subject to the subpoena. The court shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

(2) A subpoena to copy and mail or deliver documents or electronically stored information, to produce documents, electronically stored information or tangible things, or to permit inspection of premises shall comply with Rule 34(a) and (b)(1), except that the person subject to the subpoena must be allowed at least 14 days after service to comply.

(3) The person subject to the subpoena or a non-party affected by the subpoena may object ~~under Rule 37~~ if the subpoena:

(A) fails to allow reasonable time for compliance;

(B) requires a resident of this state to appear at other than a trial or hearing in a county in which the person does not reside, is not employed, or does not transact business in person;

(C) requires a non-resident of this state to appear at other than a trial or hearing in a county other than the county in which the person was served;

(D) requires the person to disclose privileged or other protected matter and no exception or waiver applies;

(E) requires the person to disclose a trade secret or other confidential research, development, or commercial information;

(F) subjects the person to an undue burden or cost;

(G) requires the person to produce electronically stored information in a form or forms to which the person objects;

(H) requires the person to provide electronically stored information

from sources that the person identifies as not reasonably accessible because of undue burden or cost; or

(I) requires the person to disclose an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study that was not made at the request of a party.

**(4) Timing and form of objections.**

(A) If the person subject to the subpoena or a non-party affected by the subpoena objects, the objection must be ~~made~~ in writing and made before the date for compliance.

(B) The objection shall be stated in a concise, non-conclusory manner.

(C) If the objection is that the information commanded by the subpoena is privileged or protected and no exception or waiver applies, or requires the person to disclose a trade secret or other confidential research, development, or commercial information, the objection shall sufficiently describe the nature of the documents, communications, or things not produced to enable the party or attorney responsible for issuing the subpoena to contest the objection.

(D) If the objection is that the electronically stored information is from sources that are not reasonably accessible because of undue burden or cost, the person from whom discovery is sought must show that the information sought is not reasonably accessible because of undue burden or cost.

(E) The objection shall be served on the party or attorney responsible for issuing the subpoena. The party or attorney responsible for issuing the subpoena shall serve a copy of the objection on the other parties.

(5) If objection is made, or if a party requests a protective order, the party or attorney responsible for issuing the subpoena is not entitled to compliance but may request an order to compel compliance under Rule 37(a). The objection or request shall be served on the other parties and on the person subject to the subpoena. An order compelling compliance shall protect the person subject to or affected by the subpoena from significant expense or harm. The court may quash or modify the subpoena. If the party or attorney

responsible for issuing the subpoena shows a substantial need for the information that cannot be met without undue hardship, the court may order compliance upon specified conditions.

**(f) Duties in responding to subpoena.**

(1) A person commanded to copy and mail or deliver documents or electronically stored information or to produce documents, electronically stored information or tangible things shall serve on the party or attorney responsible for issuing the subpoena a declaration under penalty of law stating in substance:

(A) that the declarant has knowledge of the facts contained in the declaration;

(B) that the documents, electronically stored information or tangible things copied or produced are a full and complete response to the subpoena;

(C) that the documents, electronically stored information or tangible things are the originals or that a copy is a true copy of the original; and

(D) the reasonable cost of copying or producing the documents, electronically stored information or tangible things.

(2) A person commanded to copy and mail or deliver documents or electronically stored information or to produce documents, electronically stored information or tangible things shall copy or produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the subpoena.

(3) If a subpoena does not specify the form or forms for producing electronically stored information, a person responding to a subpoena must produce the information in the form or forms in which the person ordinarily maintains it or in a form or forms that are reasonably usable.

(4) If the information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party who received the information of the claim and the basis for it. After being notified, the party must promptly return, sequester, or destroy the specified information and any copies of it and may not use or disclose the information until the claim is resolved. A receiving party may promptly present the information to the court under seal for a determination of the claim. If the receiving party disclosed the information before being notified,

it must take reasonable steps to retrieve the information. The person who produced the information must preserve the information until the claim is resolved.

(g) **Contempt.** Failure by any person without adequate excuse to obey a subpoena served upon that person is punishable as contempt of court.

(h) **Procedure when witness evades service or fails to attend.** If a witness evades service of a subpoena or fails to attend after service of a subpoena, the court may issue a warrant to the sheriff of the county to arrest the witness and bring the witness before the court.

(i) **Procedure when witness is an inmate.** If the witness is an inmate as defined in Rule 6(e)(1), a party may move for an order to examine the witness in the institution or to produce the witness before the court or officer for the purpose of being orally examined.

(j) **Subpoena unnecessary.** A person present in court or before a judicial officer may be required to testify in the same manner as if the person were in attendance upon a subpoena.

(k) **Enforcement and objections to a foreign subpoenas.** Objections to a foreign subpoena issued in accordance with the Utah Uniform Interstate Depositions and Discovery Act must comply with Rule 45(e) and any proceeding to enforce the foreign subpoena shall be submitted to the Utah court that issued the subpoena in accordance with Rule 37(a).

~~“Foreign subpoena” means a subpoena issued under authority of a court of record of any State or Territory of the United States other than Utah.~~

~~Issuance and service of a foreign subpoena. A party or attorney shall submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in Utah in accordance with Utah Code Ann. § 78B-17-101 et seq.~~

~~(1) Enforcement and objections to a foreign subpoena. Objections to and enforcement of a foreign subpoena must comply with Rule 45(e). Any paper filed under Rule 37(a) shall be submitted to the Utah court that issued the subpoena.~~

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Advisory Committee Note:

With regard to paragraph (a)(2), an attorney admitted to practice in Utah includes a Utah Licensed Paralegal Practitioner pursuant to URCP Rule 86(a) and (b). Licensed paralegal practitioners may sign and issue subpoenas provided they use a court-issued form approved by the Judicial Council in accordance with UCJA Rule 14-802(c).

Effective ~~May 1, 2021~~

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## **Additional proposals for Rule 45:**

### *Affirmative Obligation of Service – Jim Hunnicutt*

Issue 1: Add language to Rule 45 making it clear that if you subpoena a 3rd party, you have an affirmative obligation to serve those lawyers in real time with any filings that relate to the subpoena or any objections thereto. Jim will provide a draft after working with John.

### *Person from whom discovery is sought – Brent Johnson*

Issue 2: (a)(1) distinguishes between a "party" and "the person from whom discovery is sought." (a)(2)(B) requires the person seeking the order to certify that the party has attempted to confer with "the other affected parties." It says nothing about "the person from whom discovery is sought." (a)(3) permits an objection. This section states that a party may file an objection. It is silent on whether the person from whom discovery is sought may file an objection. Is this section permissive but also not prohibitive? Issues: whether a person who is not a party to the case is required to confer with the person issuing the subpoena (either because the person subpoenaed becomes a party to discovery or for some other reason). If the person who is subpoenaed becomes a "party" then the rule clearly allows that person to file an objection. If the person does not become a party, the issue is then whether that person is nevertheless allowed to file an objection to any request to compel compliance. (a)(7) also distinguishes between parties and other persons, and rule 45 makes the same distinction.

### *Issuing a blank subpoena – Janet Thorpe*

(a)(2) The clerk shall issue a subpoena, signed but otherwise in blank, to a party requesting it, who shall complete it before service: Concern with issuing blank subpoena? Further clarification needed?

### *Objections to subpoena under Rule 37 - Anthony Loubet*

(e)(3) The person subject to the subpoena or a non-party affected by the subpoena may object under Rule 37 if the subpoena: [How does a non-party object under Rule 37? Does a non-party have to intervene in order to respond by way of a statement of discovery? Rule 37 is a statement of discovery issues and does not mention non-parties in the rule and does not discuss serving a copy of the discovery issues on the non-party. It only contemplates parties to the case and thus would be entitled to notice under the rules. Section (e)(4) also mentions that the objection is to be served on the party and not with the court. Objections then are made to the requesting attorney, but then the court is not aware of the grounds for the objection when the requesting attorney files a motion to compel (which is wrong) and does not serve a copy on the non-party]

(e)(4)(E) The objection shall be served on the party or attorney responsible for issuing the subpoena. The party or attorney responsible for issuing the subpoena shall serve a copy of the objection on the other parties. [As I just mentioned, the objection is served on the attorney. No mention of filing the objection with the court is listed. And is this to be in the form of a statement of discovery issues? Or just a letter articulating the legal basis for the objection? If so, how does Rule 37 even apply to objecting to a subpoena for a non-party?]

(e)(5) If objection is made, or if a party requests a protective order, the party or attorney responsible for issuing the subpoena is not entitled to compliance but may request an order to

compel compliance under Rule 37(a) [statement of discovery issues section that does not even use the word “compliance” in the entire section].

The objection [What are we talking about here? Is this referring to the original objection or is it referring to the request for an order to compel compliance?]

or request [Similar issue. Is the request mentioned here referring to the request for a protective order, or the request for the order to compel, or both?]

shall be served on the other parties and on the person subject to the subpoena [which could be a nonparty] [If the request mentioned previously does not refer to the request for an order to compel compliance, does the motion for an order to compel not require it to be served on a non-party? This should be a separate section and given more detail on who requires service for which objections, requests, statements, motions, and such, and timelines to respond].

An order compelling compliance shall protect the person subject to or affected by the subpoena from significant expense or harm. The court may quash or modify the subpoena. [How will the court quash or modify the subpoena if it is not aware of a non-parties objection and the applicable law that may restrict the disclosure?] If the party or attorney responsible for issuing the subpoena shows a substantial need for the information that cannot be met without undue hardship, the court may order compliance upon specified conditions [but if federal law restricts disclosure unless the court makes specific findings, the court issuing an order because the party or attorney responsible for issuing the subpoena shows a substantial need may not be enough].

#### *When to object to a subpoena - Jon Hafen*

As we recently discussed, I believe there needs to be additional clarity in the Rules of Civil Procedure related to a party’s ability to raise objections to subpoenas. Although I believe the Rules already provide for a process for party’s to raise their objections to the subpoenas on the ground that Rule 26(b) requires that discovery be both relevant and proportionate and that disputes be raised pursuant to Rule 37. Also, Rule 45(e)(5) notes that a party may seek a protective order.

But in a number of cases I have seen it argued and even had some judges agree that Rule 45 only allows the party that is being served or interested third parties to object to subpoenas because Rule 45(e)(3) specifically enumerates the bases upon which the recipient and third parties may object. Another problem that has come up with Rule 45 is that it requires a notice of intent to serve a subpoena to be filed, but it does not set a timeframe between when that notice is filed and when the subpoena is served. Many counsel take the position (myself included) that the subpoenas may be served as soon as the notice is filed. But that does not give opposing counsel time to review and object to the subpoenas.

I would propose that the Rules committee consider changes that give a short time for a party to object before subpoenas are filed and also clarify within Rule 45 that parties also have the ability to object to a subpoena on the grounds that the subpoena seeks information that is not within the scope of discovery (i.e. not relevant) or that is not proportional to the claims at issue. Handling subpoenas this way would likely minimize the wasted judicial resources of having to hear piecemeal objections to subpoenas that are sent out to numerous recipients at the same time.

# Tab 4





**National Association  
for Court Management**

*Strengthening Court Professionals*



# Plain Language Guide

*How to Incorporate Plain Language into  
Court Forms, Websites, and Other Materials*

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Cover painting ©2001 by Abhijeet Chavan. All Rights Reserved. Used with permission.

Cover: *Sumi-e* is an ancient Japanese art form of communicating with clarity and simplicity using only black ink, brush, and paper. The goal is to not just depict the appearance of a subject but to convey its essence and spirit.

Updated: January 7, 2019

# How to Incorporate Plain Language into Court Forms, Websites, and Other Materials

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# 1 Introduction

## History of Plain Language

It used to be the case that when we did not understand the meaning of a word, we referred to a dictionary for its definition. Today, we “Google” it.

*Plain, clear to the mind; evident, manifest, or obvious;  
to make one’s meaning plain.*

In this Guide, the word retains that meaning and extends it to include “*plain language*”, communication your audience can understand the first time they read or hear it. The concept is so prevalent there is a namesake acronym referring to the **Plain Language Action and Information Network (PLAIN)**<sup>1</sup> which is a community of federal employees dedicated to the idea that citizens deserve clear communications from the government.

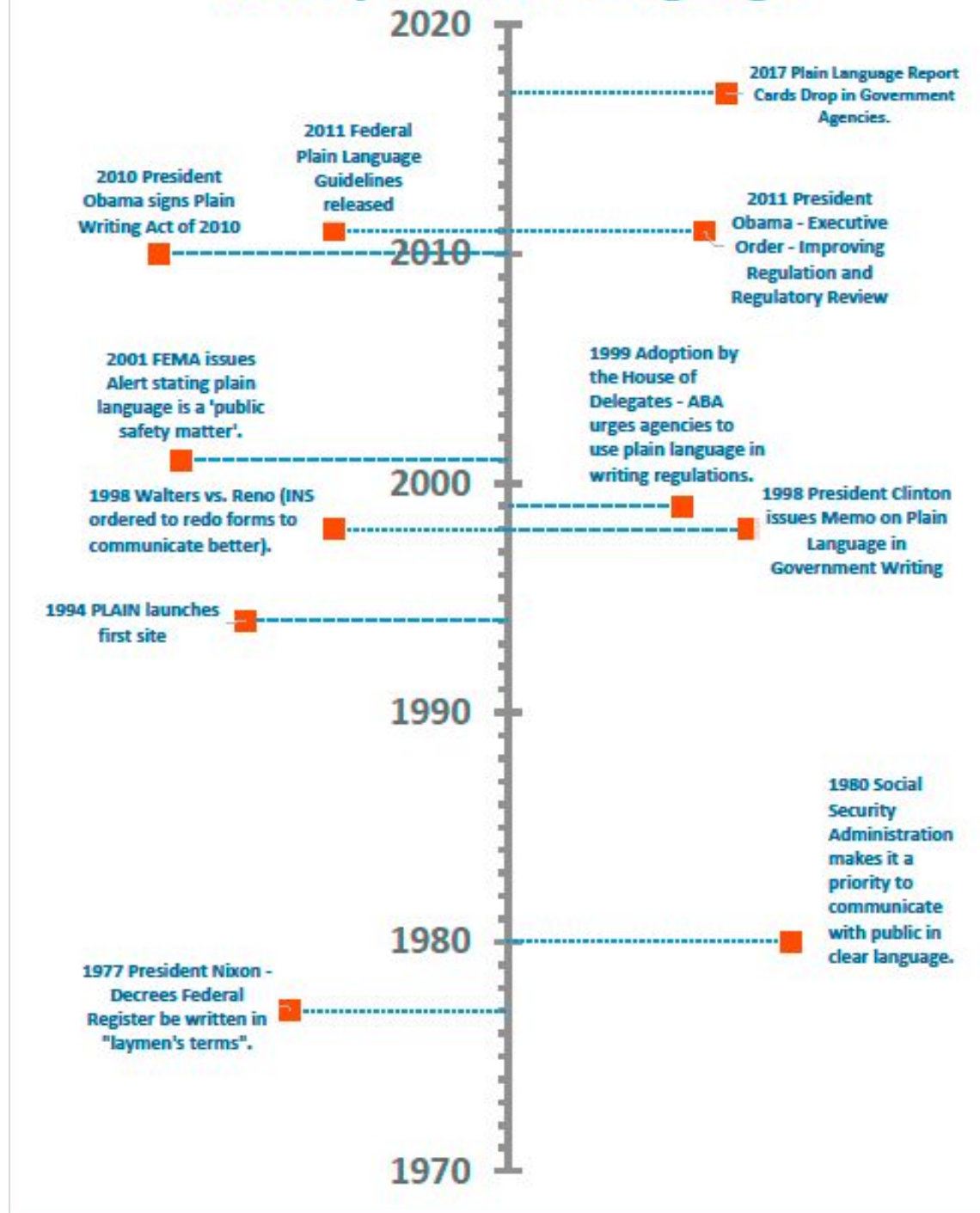
The timeline below demonstrates how this style and concept of writing was directed and has evolved in our country. In this Guide, NACM offers guidelines, resources, and examples for our courts, following the requirements of the [Plain Writing Act of 2010](#) action so your court users can:

- Find what they need;
- Understand what they find; and
- Use what they find to meet their needs.

---

<sup>1</sup> Federal Plain Language Guidelines, March 2011, Revision 1, May 2011.  
<https://plainlanguage.gov/media/FederalPLGuidelines.pdf>, accessed May 8, 2018.

# History of Plain Language



## 2 Why Use Plain Language

We see examples of plain language used in government communication all the time, but perhaps we do not recognize them as such. Take, for example, the evolution of the “Don’t Walk” sign for crossing the street. We used to see this to let us know it is not safe to cross the street as a pedestrian:



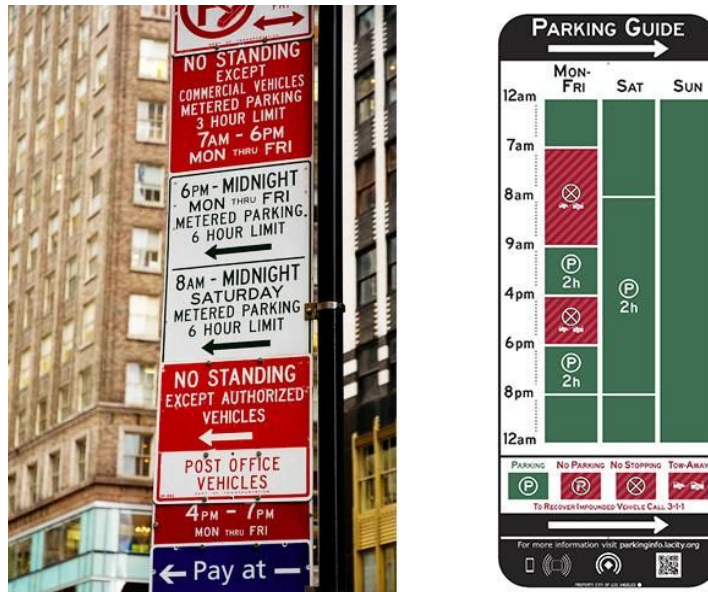
Have you noticed the evolution from the sign with words, to the sign with a picture or symbol? Now we more commonly see this:



The message has not changed - it is still unsafe to cross the street - but the comprehension opportunity has increased. Instantaneously, and without reading, albeit only two words, the user of this signs knows not to cross the street just yet. In

addition to improving comprehension time, the use of this symbol is also meaningful to non-English speakers or those with reading deficits.

Another traffic example, and definitely a more extreme one, is depicted in this side-by-side comparison:



Using a simple grid and symbols with a key or legend, a plain language version summarizing the numerous signs on the left is created eliminating some confusion over when and for how long one is permitted to park in this area.

Much like the goal of the Parking Guide above, our goal as court professionals is to provide users with the tools and understanding they need to effectively navigate the rules and laws governing their legal matters. We do not want to confuse users resulting in mistakes but rather empower users to make their own decisions regarding how to manage legal issues in their lives.

Whether in law, government, medicine, or other fields, the consensus around plain language is clear. Studies ranging from patients' adherence to their prescription drug regimens to voters at the ballot box all emphasize that plain and direct language increases understanding and application of information.<sup>2</sup> Federal guidelines promote

<sup>2</sup> D. James Greiner, Dalié Jiménez, and Lois Lupica, *Self-Help, Reimagined*, 92 IND. L. J. 1119,1172 (2017), available at <https://www.repository.law.indiana.edu/ilj/vol92/iss3/6/>.

plain language so that users can “find what they need, understand what they find, and use what they find to meet their needs.”<sup>3</sup>

This is all the more important in explaining court processes. Studies of stress and psychological barriers to understanding highlight that even for those with high literacy and familiarity with a topic, stress can limit a person’s ability to digest and process information. People often come to court as a last resort or after a crisis in their family, home, or workplace requires legal action. Plain and direct language can be crafted to overcome these barriers to ensure understanding and accurate completion of procedural requirements.

Improving one’s ability to navigate the court has obvious benefits for the court user in that the user will avoid additional stress resulting from lack of comprehension, the user will feel empowered to follow through with clearly defined tasks, and the user will feel a greater sense of ability to at least work toward success, if not achieve it. But, there are also benefits to court operations when users have increased and improved ability to navigate process and procedure. For example:

1. There may be a reduced need for human interaction with patrons, thus freeing up staff to help those who really have complex issues to navigate and to complete other business of the courts, such as special project work, day-to-day operational tasks, statistical analysis, etc.; and
2. Judges and staff may notice less protracted litigation from self-represented litigants, who will now have a better ability to understand their legal options and remedies and, when coupled with meaningful referrals to community-based resources, may also have a better understanding of non-legal options for resolution of their issue.

All of this culminates in reduced stress on patrons, reduced stress on Judges and court staff, and reduced stress on the building and physical spaces within the courthouse.


When we improve the public’s ability to understand the work of the courts and their legal options available to remedy legal problems, we increase the likelihood that users will select the right path to resolution of their issue, which may include non-legal remedies altogether. The use of plain language is a cornerstone of

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<sup>3</sup> Federal Plain Language Guidelines (rev.) 94 (2011), available at <http://www.plainlanguage.gov/howto/guidelines/FederalPLGuidelines/FederalPLGuidelines.pdf>.

transparent government. Allowing the public to have a clear understanding of the work of the courts is important to improving the public trust and confidence in the third branch. Access to justice exists when the public can understand, use, and afford information and services to prevent and resolve their legal disputes and to achieve just outcomes without delay.<sup>4</sup>

The remainder of this Guide endeavors to allow readers to understand where, when, and how to incorporate plain language into their forms, instructions, signage, and other materials intended for public use. Readers will find tools and resources to help in this journey, as well as supplemental reading and research. As you read through the Guide, please put yourself into the shoes of the court users and ask yourself, If we choose to disregard these guidelines, will we be providing adequate access to justice?



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<sup>4</sup> Karen Cohl, “Access to Justice Themes—‘Quotable Quotes’: Background Paper for The Law Society of Ontario’s Access to Justice Symposium Creating a Climate for Change, October 29, 2013” (Toronto: Law Society of Upper Canada, 2013), 5. Available at Quotable Quotes.



## 3 Plain-Language Principles

Information from courts should be understandable. While the goal of providing clear and understandable information may be self-evident, applying plain-language principles can be a challenge. Fortunately, court staff do not have to reinvent the wheel: communication experts in government, health, and adult education have tested strategies for conveying information that people without expertise can understand and act on. All we have to do is apply those strategies in the courts. This section demonstrates some of the best practices in plain language writing and visual formatting that have proven effective in other fields.

### 3.1 What Does Plain Language Look Like?

#### ***Shorter sentences***

Most sentences are too long. The first step in reducing unnecessary complexity or ambiguity is to remove unnecessary words. As Professors Greiner, Jiménez, and Lupica describe in their article, *Self-Help, Reimagined*,

“The education literature recommends the use of short sentences. Very short. Perhaps so short that they lack subjects and verbs. Some that are not grammatically correct. Write the way the intended user speaks and thinks. Write as though you are competing for the time and attention of busy and stressed individuals. Because you are.”<sup>5</sup>

The level of formality may depend on the type of material, but all court information would benefit from shorter sentences.

#### ***Change passive voice to active voice***

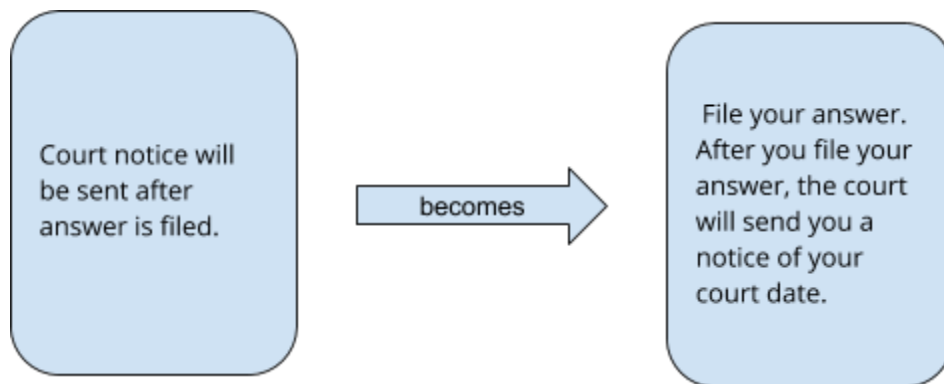
The second step to improving clarity is through the use of active voice. Official court language frequently uses passive voice. Passive voice means that there is an object *being acted on* rather than a subject *taking action*, as in: “your motion was denied” rather than “the judge denied your motion.” In communicating with court users,

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<sup>5</sup> Greiner et al., *supra* n. 2, at 1135.

passive voice runs the risk of taking concrete action steps and transforming them into confusing abstractions. When you change a sentence from passive to active voice, you will find you have to be more precise and specific: rather than taking the easy way out and say that a task will be done, active voice requires some thought about who is responsible for the task, and what the task requires.

For example:



## Address the reader directly

As you can see from the example above, court materials also tend to use the third person ("the parties shall," "it is the plaintiff's responsibility," etc.) instead of addressing the reader directly. Addressing the court user directly makes it clear that indeed the court user is to be the actor. Including the word "you" can make instructions shorter and clearer.

Take this example from the executive branch:<sup>6</sup>

<i>Before</i>	<i>After</i>
"When the process of freeing a vehicle that has been stuck results in ruts or holes, the operator will fill the rut or hole created by such activity before removing the vehicle from the immediate area."	"If you make a hole while freeing a stuck vehicle, you must fill the hole before you drive away."

<sup>6</sup> Plain Language Action and Information Network (PLAIN) before-and-after examples, available at [http://www.plainlanguage.gov/examples/before\\_after/wordiness.cfm](http://www.plainlanguage.gov/examples/before_after/wordiness.cfm).



## ***Reduce the reading level***

Over 40% of Americans read at a “basic” or “below basic” proficiency level.<sup>7</sup> In addition to baseline literacy, stress can reduce a person’s ability to understand, process, and act on written information.<sup>8</sup> Direct, precise language can reduce cognitive load and reach a broader audience.

While not clear proof of direct and precise language, automated reading-level tools provide a quick readability assessment. While there is no single industry standard, the authors recommend a benchmark of 6th grade reading level.

Most word-processing applications also have readability features. However, these features are often optional, so you must activate them. Online tools have more features. Free websites exist that rate text for readability, including reading level, sentence complexity, word use, and passive voice. In [section 4.3](#), we outline some of the tools you can use to measure the reading level of web content.

## ***More than words: formatting and visual design***

In addition to the words themselves, the format of words on a page or a website have a significant impact on a person’s ability to digest and act upon the information presented.

### **Capitalization**

The clearest lesson from the literature is to avoid ALL CAPS at all costs.<sup>9</sup> COURT NOTICES TOO OFTEN INCLUDE THE MOST IMPORTANT INFORMATION IN ALL CAPS.

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<sup>7</sup> Mark Kutner, Elizabeth Greenberg, and Justin Baer, National Assessment of Adult Literacy (NAAL): A First Look at the Literacy of America’s Adults in the 21st Century, Washington, D.C., National Center for Education Statistics (2005), available at <http://nces.ed.gov/naal/pdf/2006470.pdf>.

<sup>8</sup> J. KIMBLE, WRITING FOR DOLLARS, WRITING TO PLEASE: THE CASE FOR PLAIN LANGUAGE IN BUSINESS, GOVERNMENT, AND LAW (Carolina Academic Press 2012).

<sup>9</sup> Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic Layout and Design into the Text of Legal Writing Documents*, 2 J. ASS’N. LEGAL WRITING DIRECTORS 108, 115 (2004).

Readers tend to skip words and sentences where all letters are capitalized, meaning that the most important information is the least likely to be read.

## **White space and headings**

Overall, the less text and more white space on a page, the easier it is to digest and understand. The goal of reducing the number of pages often comes at the expense of white space, but effective forms and self-help materials can balance these two needs. Plain-language consultants at [Transcend Translations](https://transcend.net/library/legalCourts/PL_ProPerLitigants.pdf) also recommend numbering sections and adding clear descriptive subheadings on the page to help the reader understand each section in context.<sup>10</sup>

## **Typeface**

Typeface is the word that describes the way the text looks: whether the letters have little flourishes or “feet” on them, like Times New Roman (serif) or are without those flourishes, like Arial or Helvetica (sans serif). Experimental findings suggest that the typeface (serif or sans serif) does not affect comprehension.<sup>11</sup> That said, there are practical considerations when choosing a typeface. Court staff often resort to photocopying rather than printing new forms directly, resulting in fuzzy or blurry text. With that in mind, sans serif<sup>12</sup> (rather than serif) fonts are a better choice, as they result in cleaner photocopies. That said, typeface is a matter of organizational preference.<sup>13</sup> Two additional recommendations to consider: (1) select different typeface for your headings to create contrast between heading and text; and (2) once you’ve made a decision, be consistent throughout your materials.

Font size also plays a role in making text accessible and understandable. The CDC recommends 12-size font in health communication materials.<sup>14</sup>

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<sup>10</sup> Maria Mindlind, Transcend Translations (2012), available at [https://transcend.net/library/legalCourts/PL\\_ProPerLitigants.pdf](https://transcend.net/library/legalCourts/PL_ProPerLitigants.pdf).

<sup>11</sup> Maria Lonsdale, Mary C. Dyson & Linda Reynolds, *Reading in Examination-type Situations: The Effects of Text Layout on Performance*, 29 J. RES. READING 433-453 (2006).

<sup>12</sup> Examples of sans serif fonts include Helvetica, Avant Garde, Arial, and Geneva.

<sup>13</sup> Indeed, this Guide itself has followed its authors’ preference for serif font in the body of the text and sans serif headings.

<sup>14</sup> Centers for Disease Control and Prevention, Toolkit for Making Written Material Clear and Effective, <https://www.cdc.gov/Outreach-and-Education/Outreach/WrittenMaterialsToolkit/ToolkitPart05.html>.

## Visuals

Illustrations that relate to the text increase the likelihood that someone will follow the instructions.<sup>15</sup> Effective visuals can sometimes replace lengthy text instructions.

For example, the instruction,

“Once you have received the complaint, mail copies of your Answer to both the Plaintiff and the Court. Retain a copy for your own records,”

can be visually depicted.<sup>16</sup>



In addition to cartoons, other visual representations of information include roadmaps and flow charts. The key is to provide a visual that clearly conveys information in a way that the reader can understand.

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<sup>15</sup> Peter S. Houts et al., *The Role of Pictures in Improving Health Communication: A Review of Research on Attention, Comprehension, Recall, and Adherence*, 61 *PATIENT EDUC. COUNSELING* 174, 175 (2006); W. Howard Levie & Richard Lentz, *Effects of Text Illustrations: A Review of Research*, 30 *EDUC. COMM. & TECH.* 195, 206 (1982) (analyzing 155 studies on the effect of illustrations on reading comprehension); J.M.H. Moll, *Doctor-Patient Communication in Rheumatology: Studies of Visual and Verbal Perception Using Educational Booklets and Other Graphic Material*, 45 *ANNALS RHEUMATIC DISEASES* 198, 202 (1986).

<sup>16</sup> D. James Greiner & Andrea Matthews, *The Problem of Default, Part I* (2015), available at <http://a2jlab.org/current-projects/signature-studies/default/>. Thanks to Hallie Jay Pope from the Graphic Advocacy Project for the cartoon.

### *Before:*

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An appeal from an administrative agency decision, also referred to as a “30A appeal,” or a request for “judicial review of an administrative agency decision,” is what you file in the Superior Court when you want a judge to review a final decision made by a state agency. You have 30 days from the date of the decision to file a 30A appeal.

The moving party files the complaint, civil action cover sheet, and filing fee with the Clerk’s Office, and receives a summons to serve along with the complaint on the opposing party/ies within 90 days of filing. The opposing party has 90 days to respond.

The opposing parties serve the moving party with the answer and administrative record and any transcript requested. Within 30 days of receipt, the moving party serves copies of the motion, memorandum, and all supporting papers on all other parties, without filing with the Court. The opposing parties serve the original opposing memorandum and papers (to be filed by the moving party with the Court), and serve copies of all opposing memoranda and papers on all parties, including the moving party. Oppositions to motions are served 30 days after

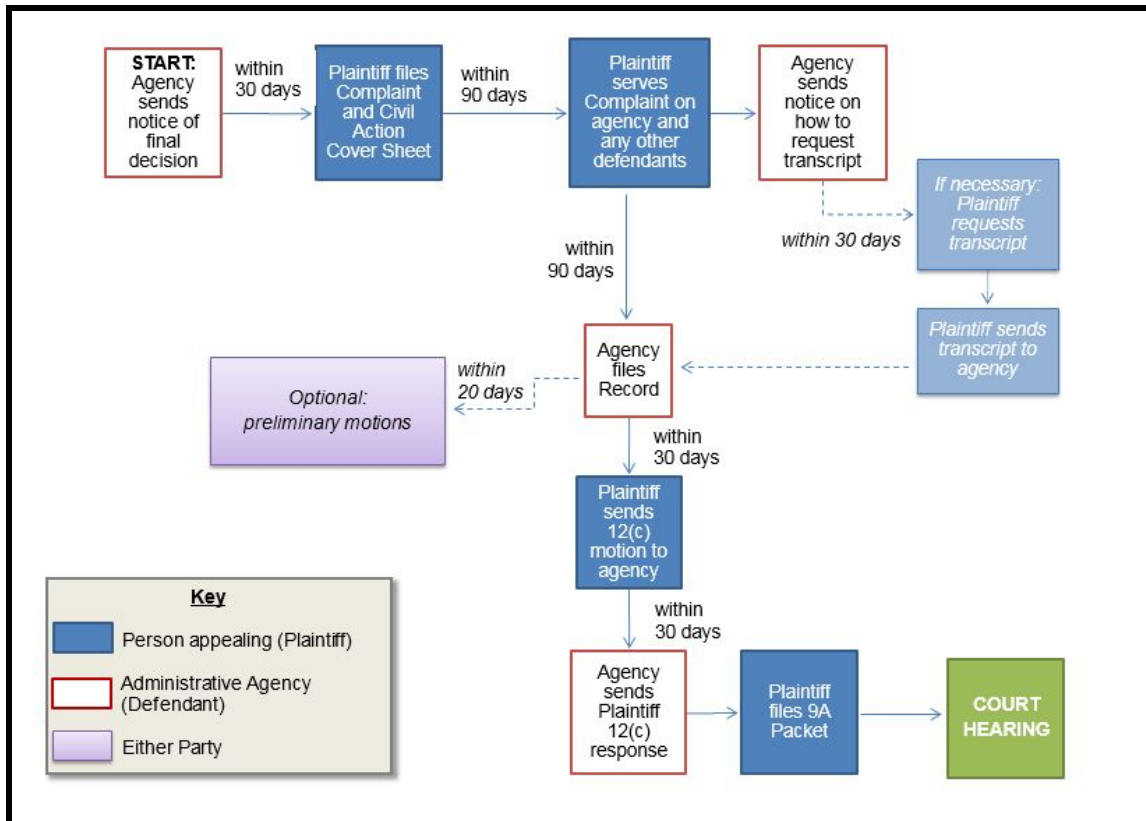
service of a motion (except a summary judgment motion, which must be served within 20 days of filing of the administrative record and must adhere to the provisions of Rule 9A).

After time for a response has passed, the moving party assembles a “Rule 9A package” for filing with the Superior Court, which includes its motion and supporting papers and timely opposition memoranda and supporting papers. “A separate document accompanying the filing shall list the title of each document in the Rule 9A package”. If the moving party doesn’t receive an opposition in the time permitted, it files its motion and supporting papers along with an affidavit “reciting compliance with this rule and receipt of no opposition in timely fashion, unless the moving party has notified all parties that the motion has been withdrawn.”

Upon filing the Rule 9A package, the moving party gives “prompt notice of the filing of the Rule 9A package to all other parties by serving... a copy of a certificate of notice of filing on a separate document.” (See Rule 9A(b) (2), Rule 9A(b) (3) and Rule 9A(b) (4) for exceptions to this procedure.)

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After:



## 3.2 A Deeper Look: Making Content Usable and Useful

### *Emphasize Procedural Knowledge Over Conceptual Understanding*

The first step to develop and test court forms and informational material is to identify the legal problem or court process then break that process down into all of its parts. For example, when an individual comes to the courthouse or court website looking for information on how to defend a small claims court debt collection case, what are the steps that a person has to take to defend that case? Explaining these steps does not require legal advice or even legal information. Most of these steps are logistical, administrative “legal mundanity.” Such as the following:

- How many copies should the person make of their court papers?
- Where do they go when they first come to the courthouse?
- Do they need to check in with anyone?
- Where do they sit while they are waiting?

- How long should they be prepared to be at the courthouse?
- Will they need to go through security and, if so, what should they expect?
- Do they need to bring copies of any documents with them such as pay stubs or identification, etc.?

Most court notices and instructions overlook some of these steps as they have little to do with formal law. But from the perspective of the court user, they are both critical to the process and completely unknown without court guidance.

## ***Affirmation and Motivation***

“Modern self-help materials fail to address many psychological and cognitive barriers that prevent the individuals who use them from successfully deploying their contents.”<sup>17</sup>

Breaking a court process down into its constituent parts for the court user might include:

- Overcoming the fear or intimidation about the court itself
- Making a plan to come to court
- Gathering and understanding information about what will happen at court
- Preparing for what will happen
- Following through

In addition to the concrete procedural and logistical steps, in order for information to be effectively deployed, the reader must feel like it is achievable. Studies show that increasing feelings of self-efficacy increase the likelihood that a person will take a recommended course of action.<sup>18</sup> Research further suggests that providing instructions on what specific actions to take in order to deal with a stressful situation can be effective, for example by providing a specific action plan for getting flu shots.<sup>19</sup> Specific, proximate goals or action steps can increase a patient’s success in managing

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<sup>17</sup> Greiner et al., *supra* n. 2, at 1119.

<sup>18</sup> James E. Maddux & Ronald W. Rogers, *Protection Motivation and Self-efficacy: A Revised Theory of Fear Appeals and Attitude Change*, 19 J. EXPERIMENTAL SOC. PSYCHOL. 469 (1983).

<sup>19</sup> Kevin D. McCaul & Rebecca J. Johnson, *The Effects of Framing and Action Instructions on Whether Older Adults Obtain Flu Shots*, 21 HEALTH PSYCHOL. 624, 627 (2002).

a medical condition.<sup>20</sup> They may also increase a court user’s success in navigating complex court procedures.

Is this outside the scope of a court’s obligations? Not at all! In fact, a notice of trial or other notice to appear is specifically intended for the recipient to read and to follow the course of action – to come to court. If a party does not come to court, the adversarial process grinds to a halt, and in many jurisdictions, time and money is spent on alternative ways to force the party to attend (e.g., civil arrest warrant).

### ***Modify Court Process***

Forms and court notices are reflective of process. Sometimes all the plain language description in the world can’t save a process from being unnecessarily complex. Using the form or notice itself as a starting point, court administrators can look at the processes themselves from the perspective of the court user and simplify the process to the extent possible.

Process improvement starts with identifying all the steps in the current process. It can be a painstaking endeavor but it can also serve to illustrate barriers that we were overlooking as well as duplications of effort that can be consolidated. So, if we start with the notice itself, track every single place that notice goes until the matter is resolved. Who hands this paper to whom? Which inbox does this paper go into next. What does that person then do with it? And so on and so forth. Most redundancies, unnecessary, or arduous steps will rise to the surface on their own. After those are identified, read critically through the steps that remain asking yourself “What value does this step add to the process? Is it necessary?”

## **3.3 You’ve Drafted Something. Now What?**

### ***Test to See What Works***

User testing is useful when developing a new written tool. Consider conducting interviews, focus groups, or surveys of people who use the information. User testing at its best is an iterative or repetitive process and an inclusive one. Users can include litigants, lawyers, interpreters, and clerical staff. Iterative feedback from court users can improve the end result and highlight underlying court processes that can be simplified.

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<sup>20</sup> P.G. Gibson & H. Powell, *Written Action Plans for Asthma: An Evidence-Based Review of the Key Components*, 59 *THORAX* 94, 94-95 (2004).

After initial user testing, it is important to build rigorous evaluation into the rollout of any new intervention, including new court forms. The most scientifically rigorous evaluation technique is randomized study. This means rolling out a new intervention in a randomized fashion, with a control group (status quo) and a treatment group (the group that receives the new form).

Below is a useful checklist for testing design and content developed by the [Center for Plain Language](https://centerforplainlanguage.org/learning-training/five-steps-plain-language/):<sup>21</sup>

### ***Test the design at multiple points***

- Were audience needs, such as top tasks, prioritized based on user research?
- Did you test navigation labels and information organization for predictability?
- Did you test the content for readability and understandability?
- Did you test the final product?

### ***Use evidence-based testing strategies***

- Were the participants representative of the target groups?
- Did you test your design and content with enough people?
- How was understanding and ability to act measured?
- Was there a before-and-after comparison to demonstrate improvement?

### ***Check that the final product is useful and usable***

- Ask readers to describe who and what the document or site is intended for
- Have them show you how they would find the information they want or need
- Ask them to describe key concepts or processes in their own words
- Observe whether target users can finish key tasks easily and confidently
- Note where they stumble or misunderstand and rethink those parts of the site or document

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<sup>21</sup> <https://centerforplainlanguage.org/learning-training/five-steps-plain-language/>, accessed August 7, 2018.



## 4 When and Where to Use Plain Language

### 4.1 Court Forms

In this era that emphasizes customer service, courts around the country are trying to meet the challenges posed by a relatively new customer—the self-represented litigant. The difficulty is that court systems are not designed to serve these customers. As a result, individuals seeking “service” from the court system and those involved in providing service are frustrated. Confusing language, rules, and procedures frustrate litigants. Unprepared self-represented litigants frustrate attorneys by delaying proceedings, which may increase expenses. Judges must remain neutral.

Challenges begin when self-represented litigants make their first contact with the court system. The self-represented litigant is seeking some form of assistance from the court clerk about how to start the proceeding. The court clerk must balance the training they have received on providing customer service, workload demands, and legal and ethical constraints concerning the unauthorized practice of law. As a result, the court clerk is faced with a customer that may require an explanation of a number of items, but the clerk is not sure what information is appropriate to provide. The uncertainty of this situation likely results in limited information being provided to self-represented litigants.

This is where the plain-language legal court form can bridge the gap in services that the court clerk can provide. Researchers have examined the user experience in the court system and found that the public's trust in the justice system is driven far more by whether their interaction with the courts was positive or negative, i.e., whether they were treated with respect and felt heard, rather than whether they win or lose.<sup>22</sup>

To fully serve the self-represented litigant, a plain-language legal court form should be written with clarity (more fully explained below), and the court form should include instructions explaining the procedural process and any other form that the litigant might need to complete the process (for example, an order, notice of court, or summons).

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<sup>22</sup> Tom Tyler, *Procedural Justice and the Courts*, 44 CT. REV. 26 (2007-2008) <http://amjudges.org/publications/courtrv/cr44-1/CR44-1-2Tyler.pdf>.

Plain-language court forms are effective because they:

- Educate litigants about the law and help them better present their cases;
- Better inform other parties of claims and issues;
- Give the court relevant information on which to make decisions; and
- Allow decisions and orders to be more specific, thus easier to comply with and to enforce.

Plain-language court forms have the following impact on **users**:

- Users may have an easier time starting their case;
- Users may understand upfront if the circumstances in their case qualify them for the relief they are seeking;
- Users may be more confident and less pressured in the courtroom because they feel that the forms present the key information;
- Users may be better notified of the likely positions of the opposing side, leading to better preparation and fewer surprises; and
- Users may make fewer errors and be less confused.

Plain-language court forms have the following impact on **judges** and **court staff**:

- There may be less wasted time answering questions, reviewing forms, rescheduling hearings, etc.;
- There may be fewer errors by litigants;
- Ability to improve access to justice; and
- They create a more transparent court system.

## ***Drafting Court Forms***

Do not assume your readers have knowledge of the subject or have read any related information. Clearly ask or explain in a way that your reader understands and knows what to do with the information. Eliminate unnecessary words. Be concise. Define and use terms consistently. Use the same words your reader would use.

Before:

PETITION FOR CHANGE OF NAME (single / plural)		3253 (Rev. 12/08)												
<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">IN THE MATTER OF THE PETITION OF</div> <div style="border: 1px solid black; height: 40px; margin-bottom: 10px;"></div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">FOR CHANGE OF NAME</div> <div style="border: 1px solid black; padding: 5px;">DATE OF BIRTH</div>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 10px;">CASE NUMBER</div> <div style="border: 1px solid black; padding: 5px;">PETITION FOR CHANGE OF NAME (single / plural)</div>	<div style="border: 1px solid black; height: 150px; margin-bottom: 10px;"></div> <div style="border: 1px solid black; padding: 5px;">File Stamp Here</div>												
<p><b>TO THE HONORABLE JUDGE OF THE CIRCUIT COURT</b></p> <p>Your petitioner(s) respectfully show as a resident(s) of the State of Illinois and have resided in said State for six (6) months prior to the filing of this petition; having been a resident of the State of Illinois since _____. Your petitioner(s) who were born in _____ state / county desire to change name(s) according to the provisions of 735 ILCS 5/21 in such case made and provided, and now, in that behalf, respectfully show and now bears the name of :</p> <p>_____</p> <p>and are known and called by this name; and desire to assume the name of:</p> <p>_____</p> <p>by which may afterward be known and called. That given notice of this intended application by publication for three (3) successive weeks in _____ a newspaper of general circulation, published in DuPage County, a copy of said published notice, with the certificate of the publisher thereon is hereto annexed and made part of this petition.</p> <p><b>WHEREFORE</b>, your petitioner(s) pray(s), the premises being considered and name(s) be changed from it's present form to:</p> <p>_____</p> <p>as provided by statute, and that such other or future relief in the premises as this Honorable Court shall deem met, according to law.</p> <p>Name: _____ <input type="checkbox"/> PRO SE</p> <p>Attorney Number: _____</p> <table style="width: 100%;"><tr><td style="width: 40%;">Attorney for: _____</td><td style="width: 30%;">Date _____</td><td style="width: 30%;">Date _____</td></tr><tr><td colspan="3">Address: _____</td></tr><tr><td colspan="3">City/State/Zip: _____</td></tr><tr><td>Telephone Number: _____</td><td>Petitioner _____</td><td>Petitioner _____</td></tr></table>			Attorney for: _____	Date _____	Date _____	Address: _____			City/State/Zip: _____			Telephone Number: _____	Petitioner _____	Petitioner _____
Attorney for: _____	Date _____	Date _____												
Address: _____														
City/State/Zip: _____														
Telephone Number: _____	Petitioner _____	Petitioner _____												
<p><b>AFFIDAVIT</b></p> <p>_____ being duly sworn on oath deposes and says that they are acquainted with the petitioner(s) in this cause, who have signed this petition; and that have hereby read this petition, and knows the contents thereof, and that the same, and the matters and things herein stated are true.</p> <p style="text-align: center;">Signed and sworn to before me</p> <table style="width: 100%;"><tr><td style="width: 33%;">_____ Date</td><td style="width: 33%;">_____ Circuit Clerk or Notary Public</td><td style="width: 33%;">_____ Affiant</td></tr></table>			_____ Date	_____ Circuit Clerk or Notary Public	_____ Affiant									
_____ Date	_____ Circuit Clerk or Notary Public	_____ Affiant												

After:

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois courts.

<b>STATE OF ILLINOIS, CIRCUIT COURT</b> _____ COUNTY		<b>REQUEST FOR NAME CHANGE (ADULT)</b>	<i>For Court Use Only</i>
<b>Instructions ▼</b> Directly above, enter the county name where you will file this case. Enter your current name. <b>DO NOT</b> enter a Case Number, the Circuit Clerk will add it.	Request of:  Your current name (First, middle, last name) _____		Case Number _____

In 1, enter your complete current name. In 2, enter the new full name you would like. In 3, enter your complete current address. In 4, enter the date you started living in Illinois. In 5, enter your date of birth. In 6, enter the city, county, state, and country where you were born. In 7-9, check the boxes that apply to your criminal history. In 10, 11, and 12 check whether you have or have not been convicted or put on probation for the crime listed. If you checked "have" in 10 or 11 and have not been pardoned, <u>the court cannot give you a name change.</u> If you checked "have" in 12 and have not been pardoned or have not completed your probation or sentence over 10 years ago, the court may not give you a name change.	<p>I ask the court to enter an order to change my name, and I state:</p> <p>1. My current name is:</p> <p>First _____ Middle _____ Last _____</p> <p>2. I wish my name to be changed to:</p> <p>First _____ Middle _____ Last _____</p> <p>3. My address is:</p> <p>Street _____ City _____ State _____ ZIP _____</p> <p>4. I have lived continuously in Illinois for at least 6 months beginning: _____ Date _____</p> <p>5. My birth date is: _____ Date _____</p> <p>6. My place of birth is:</p> <p>City _____ County _____ State/Province _____ Country _____</p> <p>7. I <input type="checkbox"/> have <input type="checkbox"/> have not been adjudicated or convicted of a felony or misdemeanor in Illinois or any other state for which a pardon has not been granted.</p> <p>8. I <input type="checkbox"/> do <input type="checkbox"/> do not have an arrest for which charges have not been filed.</p> <p>9. I <input type="checkbox"/> do <input type="checkbox"/> do not have a pending felony or misdemeanor charge.</p> <p>10. I <input type="checkbox"/> have <input type="checkbox"/> have not been convicted of or placed on probation for a crime which requires me to register as a sex offender in Illinois or any other state.</p> <p>11. I <input type="checkbox"/> have <input type="checkbox"/> have not been convicted of or placed on probation for identity theft or aggravated identity theft in Illinois or any other state.</p> <p>12. I <input type="checkbox"/> have <input type="checkbox"/> have not been convicted of or placed on probation for a felony in Illinois or any other state.</p>
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Enter the Case Number given by the Circuit Clerk: \_\_\_\_\_

**In 13, describe what you were convicted of or placed on probation for, if you checked "have" in 10, 11, or 12.**  
If you run out of space, use a separate piece of paper.

13. If you checked "have" in 10, 11, or 12 complete the following:

Description of Felony or Misdemeanor	Date of Conviction or Probation	Sentence Received (include parole and supervised release)	Date Sentence Completed	Pardoned? (Yes or No)

**Under the Code of Civil Procedure, [735 ILCS 5/1-109](#), making a statement on this form that you know to be false is perjury, a Class 3 Felony.**

**If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.**

I certify that everything above is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under [735 ILCS 5/1-109](#).

/s/ \_\_\_\_\_  
Your Signature

\_\_\_\_\_

Print Your Name

\_\_\_\_\_

Street Address

\_\_\_\_\_

City, State, ZIP

\_\_\_\_\_

Telephone

**GETTING COURT DOCUMENTS BY EMAIL:** If you agree to receive court documents by email, check the box below and enter your email address. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information or notice of court dates. Other parties may still send you court documents by mail.

☐ I agree to receive court documents at this email address during my entire case.

Email \_\_\_\_\_

**NOTE**  
This section should be filled out by someone else, not the person asking for a name change.

**Witness: Enter your full name.**

**Under the Code of Civil Procedure, [735 ILCS 5/1-109](#), making a statement on this form that you know to be false is perjury, a Class 3 Felony.**

**VERIFICATION BY WITNESS**

I, \_\_\_\_\_

First                      Middle                      Last

certify that what is stated above is true and correct to the best of my knowledge and belief.

\_\_\_\_\_

Witness Signature

\_\_\_\_\_

Witness Name

## Write in Short Sentences/Questions

It is difficult to determine the intended meaning of a complex sentence. Readable sentences are simple, active, affirmative, and declarative. The more a sentence deviates from this structure, the harder the sentence is to understand.

Follow these guides for writing sentences:

- State one thing and only one thing in each sentence.
- Divide long sentences into two or three short sentences.



- Remove all unnecessary words. Strive for a simple sentence with an implied subject and implied verb. Eliminate unnecessary modifiers.

*Before:*

**TO THE HONORABLE JUDGE OF THE CIRCUIT COURT**

Your petitioner(s) respectfully show as a resident(s) of the State of Illinois and have resided in said State for six (6) months prior to the filing of this petition; having been a resident of the State of Illinois since \_\_\_\_\_. Your petitioner(s) who were born in \_\_\_\_\_ state / country desire to change name(s) according to the provisions of 735 ILCS 5/21 in such case made and provided, and now, in that behalf, respectfully show and now bears the name of:

\_\_\_\_\_

and are known and called by this name; and desire to assume the name of:

\_\_\_\_\_

by which may afterward be known and called.

**WHEREFORE**, your petitioner(s) pray(s), the premises being considered and name(s) be changed from it's present form to:

\_\_\_\_\_

as provided by statute, and that such other or future relief in the premises as this Honorable Court shall deem met, according to law.

*After:*

**I ask the court to enter an order to change my name, and I state:**

1. My current name is:

\_\_\_\_\_

First Middle Last

2. I wish my name to be changed to:

\_\_\_\_\_

First Middle Last

3. My address is:

\_\_\_\_\_

Street City State ZIP

4. I have lived continuously in Illinois for at least 6 months beginning:

\_\_\_\_\_

Date

5. My birth date is: \_\_\_\_\_

Date

6. My place of birth is: \_\_\_\_\_

City County State/Province Country

## Use Understandable Expressions

When choosing a word, balance the following:

- Use the most basic word.
- If the most basic word has many definitions and if those definitions can cause confusion, use a more precise word.
- Use industry-standard words.

- When a law is referenced, use the core words of the law. Do not use the legalese, if possible.

*Before:*

<b>AFFIDAVIT</b>		
<p>_____ being <u>duly sworn on oath</u> deposes and says that they are acquainted with the petitioner(s) in this cause, who have signed this petition; and that have hereby read this petition, and knows the contents thereof, and that the same, and the <u>matters and things herein stated are true.</u></p> <p style="text-align: center;">Signed and sworn to before me</p>		
_____ Date	_____ Circuit Clerk or Notary Public	_____ Affiant

*After:*

<b>VERIFICATION BY WITNESS</b>		
<p>I, _____  <div style="display: flex; justify-content: space-between; width: 100%;"> <span>First</span> <span>Middle</span> <span>Last</span> </div> </p> <p>certify that what is stated above is true and correct to the best of my knowledge and belief.</p>		
<p>_____ Witness Signature</p>		
<p>_____ Witness Name</p>		

*Put the instructions on how to complete the form right on the form*

<b>STATE OF ILLINOIS, CIRCUIT COURT</b> <div style="border-bottom: 1px solid black; width: 100%;"></div> <div style="text-align: right; padding-right: 5px;">COUNTY</div>	<b>REQUEST FOR NAME CHANGE (ADULT)</b>	<i>For Court Use Only</i>
<div style="border: 2px solid red; padding: 2px;"> <b>Instruction: ▼</b>          Directly above, enter the county name where you will file this case.          Enter your current name.  <b>DO NOT</b> enter a Case Number, the Circuit Clerk will add it.       </div>	Request of:  _____ Your current name (First, middle, last name)	_____ Case Number

## Use Hyperlinks

Hyperlinks can be used throughout the form to connect the reader to specific references.

A hyperlink is appropriate when it is necessary for providing more information for the reader, such as definitions, instructions, or step-by-step guides, or citing an online source within the text, such as statutes or other court forms.

<p>Under the Code of Civil Procedure, <a href="#">735 ILCS 5/1-109</a>, making a statement on this form that you know to be false is perjury, a Class 3 Felony.</p> <p>If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.</p>	<p>I certify that everything above is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under <a href="#">735 ILCS 5/1-109</a>.</p>	
	<p>/s/</p> <p>_____ Your Signature</p>	<p>_____ Street Address</p>
	<p>_____ Print Your Name</p>	<p>_____ City, State, ZIP</p>
		<p>_____ Telephone</p>

## It's More than Well-Drafted Forms

Very little frustrates a self-represented litigant more or slows down the administration of justice than having a court hearing when a necessary step in the process was not completed, or even worse, when the litigant is disqualified from the type of relief they are seeking. It is essential that the materials that accompany forms include any necessary notices and orders. Further, the instructions must:

- (1) prompt the user to ask “do the specific circumstances allow me to seek this relief”; and
- (2) explain the process from filing to court hearing.



## Explaining the Process

HOW TO CHANGE YOUR NAME (for an Adult)	
<b>Who can ask the court for a name change?</b> To change your name, you <b>MUST</b> : <ul style="list-style-type: none"><li>Be at least 18 years old; AND</li><li>Have lived in Illinois for at least 6 months.</li></ul>	<ul style="list-style-type: none"><li>If there is no newspaper in your county, contact a convenient newspaper published in Illinois.</li></ul>
<b>You CAN NOT change your name if you have been convicted of:</b> <ul style="list-style-type: none"><li>A felony and have not been pardoned or you finished your sentence less than 10 years ago; OR</li><li>Identity theft or aggravated identity theft and have not been pardoned; OR</li><li>Felony or misdemeanor: criminal sexual abuse when the victim at the time is under 18 years of age, sexual exploitation of a child, indecent solicitation of a child, or indecent solicitation of an adult, or any other offense that requires you to register as a sex offender, and have not been pardoned.</li></ul>	<p><b>Who can ask the court for a name change?</b> To change your name, you <b>MUST</b>:</p> <ul style="list-style-type: none"><li>Be at least 18 years old; AND</li><li>Have lived in Illinois for at least 6 months.</li></ul> <p><b>You CAN NOT change your name if you have been convicted of:</b></p> <ul style="list-style-type: none"><li>A felony and have not been pardoned or you finished your sentence less than 10 years ago; OR</li><li>Identity theft or aggravated identity theft and have not been pardoned; OR</li><li>Felony or misdemeanor: criminal sexual abuse when the victim at the time is under 18 years of age, sexual exploitation of a child, indecent solicitation of a child, or indecent solicitation of an adult, or any other offense that requires you to register as a sex offender, and have not been pardoned.</li></ul>
<b>What forms do I need to fill out?</b> <ul style="list-style-type: none"><li><b>Request for Name Change:</b> information needed to decide on your name. A person who knows you must also sign the form.</li></ul>	<p><b>Step 3: Get a Certificate of Publication from the newspaper and file it with the court.</b></p> <ul style="list-style-type: none"><li>After the notice appears in a newspaper for 3 weeks, get a Certificate of Publication from the newspaper.</li><li>Ask the newspaper how you will get the Certificate of Publication. The newspaper will either:<ul style="list-style-type: none"><li>Send the Certificate directly to the Circuit Clerk;</li><li>Mail the Certificate to you; OR</li><li>Tell you to pick up the Certificate in person.</li></ul></li><li>Take the Certificate of Publication to the courthouse and file it with the Circuit Clerk before your court date.</li><li>If the newspaper sends the Certificate directly to the Circuit Clerk, make sure it arrives before your court date and ask the newspaper to send you a copy.</li></ul>

## Asking qualifying questions

HOW TO CHANGE YOUR NAME (for an Adult)	
<b>Who can ask the court for a name change?</b> To change your name, you <b>MUST</b> : <ul style="list-style-type: none"><li>Be at least 18 years old; AND</li><li>Have lived in Illinois for at least 6 months.</li></ul>	<ul style="list-style-type: none"><li>If there is no newspaper in your county, contact a convenient newspaper published in Illinois.</li></ul>
<b>You CAN NOT change your name if you have been convicted of:</b> <ul style="list-style-type: none"><li>A felony and have not been pardoned or you finished your sentence less than 10 years ago; OR</li><li>Identity theft or aggravated identity theft and have not been pardoned; OR</li><li>Felony or misdemeanor: criminal sexual abuse when the victim at the time is under 18 years of age, sexual exploitation of a child, indecent solicitation of a child, or indecent solicitation of an adult, or any other offense that requires you to register as a sex offender, and have not been pardoned.</li></ul>	<ul style="list-style-type: none"><li>Give a copy of the <i>Publication Notice of Court Date for Request for Name Change</i> to a newspaper.</li><li>The notice must appear in a newspaper for the first time at least 6 weeks before your hearing date.</li><li>Newspapers may charge you a publication fee.</li></ul>
<b>What forms do I need to fill out?</b> <ul style="list-style-type: none"><li><b>Request for Name Change:</b> information needed to decide on your name. A person who knows you must also sign the form.</li><li><b>Publication Notice of Court Date for Request for Name Change:</b> tells the publisher to change your name in a newspaper for 3 weeks.</li><li><b>Order for Name Change:</b> is your Request for Name Change.</li></ul>	<p><b>Step 3: Get a Certificate of Publication from the newspaper and file it with the court.</b></p> <ul style="list-style-type: none"><li>After the notice appears in a newspaper for 3 weeks, get a Certificate of Publication from the newspaper.</li><li>Ask the newspaper how you will get the Certificate of Publication. The newspaper will either:<ul style="list-style-type: none"><li>Send the Certificate directly to the Circuit Clerk;</li><li>Mail the Certificate to you; OR</li><li>Tell you to pick up the Certificate in person.</li></ul></li><li>Take the Certificate of Publication to the courthouse and file it with the Circuit Clerk before your court date.</li><li>If the newspaper sends the Certificate directly to the Circuit Clerk, make sure it arrives before your court date and ask the newspaper to send you a copy.</li></ul>
<b>What costs will I need to pay?</b> <ul style="list-style-type: none"><li><b>Filing Fee:</b> to file your form.</li><li><b>Publication Fee:</b> to put your name in a newspaper.</li><li><b>Certified Copy Fee:</b> if you need certified copies of your name change.</li></ul>	<p><b>What costs will I need to pay?</b></p> <ul style="list-style-type: none"><li><b>Filing Fee:</b> to file your form.</li><li><b>Publication Fee:</b> to put your name in a newspaper.</li><li><b>Certified Copy Fee:</b> if you need certified copies of your name change.</li></ul>

Often in the course of filing a new case or responding to an existing case, there is the petition or answer, but then there are other procedural forms needed, like a summons or a notice. It is necessary to provide litigants with all possible forms they may need, including a well-drafted order that the judge can fill out at the conclusion of the legal matter.

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois courts.		<i>For Court Use Only</i>
STATE OF ILLINOIS, CIRCUIT COURT  <div style="border-bottom: 1px solid black; display: inline-block; width: 80%;"></div> <div style="border: 1px solid black; padding: 2px; display: inline-block; width: 10%; text-align: center;">▼</div> COUNTY	<b>PUBLICATION NOTICE OF COURT DATE FOR REQUEST FOR NAME CHANGE (ADULT)</b>	
<b>Instructions ▼</b> Directly above, enter the name of the county where the case was filed. Enter your current name. Enter the case number given to you by the Circuit Clerk.	Request of: _____  Your current name ( <i>First, middle, last name</i> ) _____	_____  Case Number _____

There will be a court date on my *Request* to change my name from:

Enter your current full name.

\_\_\_\_\_  
*First Middle Last*

to the new name of:

Enter the new full name you would like.

\_\_\_\_\_  
*First Middle Last*

Get the court date and time from the Circuit Clerk when you file the *Request for Name Change*.  
 Make sure the date is at least 8 weeks after the date you file this form with the Circuit Clerk.

The court date will be held:

on \_\_\_\_\_ at \_\_\_\_\_ ☐ a.m. ☐ p.m.,  
*Date* *Time*

at \_\_\_\_\_, ▼  
*Street Address* *City* *County*

in Courtroom # \_\_\_\_\_  
*Room Number*

If you are completing this form on a computer, sign your name by typing it. If you are completing it by hand, sign and print your name.

\_\_\_\_\_/s/\_\_\_\_\_  
*Your Signature*

For information on how to publish this Notice, see *How to Change your Name (for an Adult)*.

\_\_\_\_\_  
*Your Current Name*

## Order

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois courts.

STATE OF ILLINOIS, CIRCUIT COURT COUNTY		ORDER FOR NAME CHANGE (ADULT)	For Court Use Only
<b>Instructions ▼</b> Directly above, enter the county name where the case was filed. Enter your current name. Enter the case number given to you by the Circuit Clerk.	Request of:  Your current name (First, middle, last name)		Case Number

The Court reviewed your *Request for Name Change* and finds:

**DO NOT** check any boxes on this form. The judge will check the correct boxes at the hearing.

☐ The Court has jurisdiction.  
☐ Correct notice was done by newspaper publication.  
 In this Newspaper: \_\_\_\_\_  
 On these Dates: \_\_\_\_\_  
☐ The statements made in the *Request for Name Change* meet the statutory requirements.  
☐ The statements made in the *Request for Name Change* do not meet the statutory requirements.

IT IS ORDERED:

Enter your current full name.

Enter the new full name you would like.

☐ The *Request for Name Change* is GRANTED.  
 The name of:  
 First Middle Last  
 is changed to:  
 First Middle Last  
☐ The *Request for Name Change* is DENIED.  
 The *Request* is denied for the following reason(s): \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

ENTERED:

DO NOT enter the Judge and Date. The judge will sign here.

Judge Date

## Provide Forms in Multiple Formats

Once you have a plain-language court form and instructions explaining the process, it is time to increase usability of the suite by making them ADA compliant, providing

access to them in multiple formats, creating a guided interview, and translating them into non-English languages.

## **Print and PDF**

Forms should be available at courthouses, public libraries, and other relevant community spaces in print version for users that do not have the ability to use a computer. The form should also be publicly available in a fillable PDF format. When posting a fillable PDF on the web, Courts should always ensure that the PDF complies with the [Americans with Disabilities Act Section 508](#). Under 508, disabled members of the public must have comparable access to information that is available to those without disabilities.

According to Transcend the features of an accessible PDF include<sup>23</sup>:

- Alternate text for important images that convey information;
- Active links;
- Logically organized page structure with headers, subheads, paragraphs, etc., so that the text can be read in the proper order; and
- Properties that specify the document's source language

## **Guided Interviews**

*The Access to Justice: Meeting the Needs of Self-represented Litigants Project* studied how self-represented litigants navigated the court system and identified the process of selecting and completing court forms as a major hurdle for self-represented litigants to overcome.<sup>24</sup> Guided interviews can help self-represented litigants choose the correct forms, guide them in answering the questions, provide additional helpful information through the process, and return the completed documents to them ready to file.<sup>25</sup>

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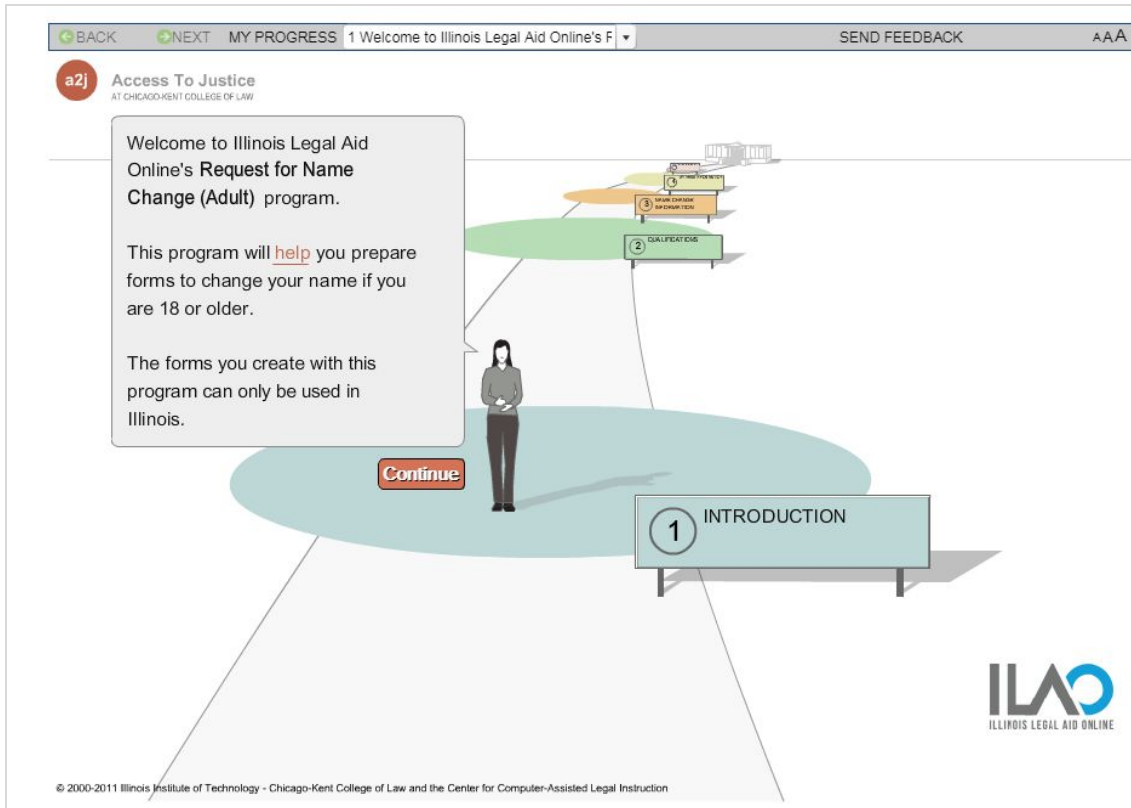
<sup>23</sup> Transcend, Accessible PDFs, available at <https://transcend.net/services/webAccessibility.html#features>.

<sup>24</sup> JULIE MACFARLANE, THE NATIONAL SELF-REPRESENTED LITIGANTS PROJECT: IDENTIFYING AND MEETING THE NEEDS OF SELF-REPRESENTED LITIGANTS FINAL REPORT <http://www.representingyourselfcanada.files.wordpress.com/2014/02/reportm15-2.pdf> [<https://perma.cc/PTH6-YAMZ>].)

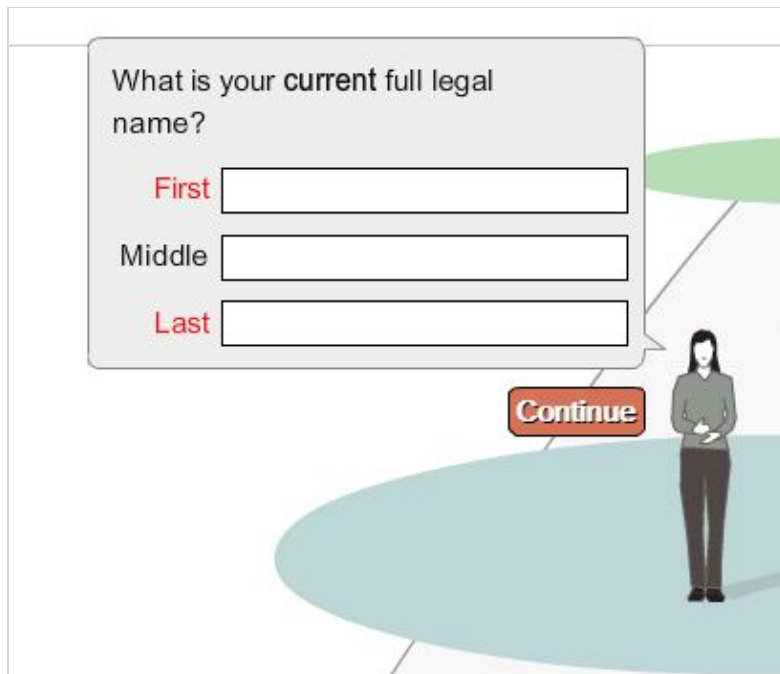
<sup>25</sup> Example of guided interview was created by Illinois Legal Aid Online using A2J Author software and is hosted by Law Help Interactive. A link to the full interview can be found here: <https://lawhelpinteractive.org/Interview/GenerateInterview/6195/engine>

Advantages of guided interviews include:

- The interface is less intimidating than a court form.



- Qualifying questions are asked up front.
- Questions are asked one at a time and on one topic.



What is your **current** full legal name?

First

Middle

Last

**Continue**

A woman character stands to the right of the form.

- Self-represented litigants are given additional information as needed.



You must publish notice of your name change in a newspaper in the county where you live. You should contact a newspaper in your county and set up publication of the notice.

If there is no newspaper in your county, contact a convenient newspaper published in Illinois.

If you live in Cook County, you may wish to publish notice in the [Chicago Daily Law Bulletin](#).

**Close**

3 NAME CHANGE INFORMATION

A woman character stands to the left of the notice box. Below the notice box is a sign that reads '3 NAME CHANGE INFORMATION'.



## Translate into Non-English Languages

The 2011 American Community Survey, conducted by the U.S. Census Bureau, tells us that over 60 million people (21 percent of the 291.5 million surveyed) speak a language other than English at home, and over 25 million speak English less than “very well.”<sup>26</sup> Translating forms and other self-help content into the most common languages spoken in your part of the country is a vital way to improve access to the civil justice system.

### CÓMO CAMBIAR SU NOMBRE (para un adulto)

#### ¿Quién puede pedirle un cambio de nombre a la corte?

Para cambiar su nombre, **TIENE QUE:**

- Tener por lo menos 18 años de edad; Y
- Haber vivido en Illinois por lo menos durante 6 meses.

#### **NO PUEDE** cambiar su nombre si fue condenado por:

- Un delito grave y no fue perdonado, o cumplió con su sentencia hace menos de 10 años; O
- Robo de identidad, o robo de identidad agravado, y no ha sido perdonado; O
- Delito grave o delito menor: abuso sexual penal cuando la víctima tenía menos de 18 años de edad, explotación sexual de un menor; solicitud sexual indecente a un menor de edad o un adulto; o cualquier otra infracción que requiera su inscripción como infractor sexual, y no ha sido perdonado.

#### ¿Qué formularios tengo que llenar para cambiar mi nombre?

- **Solicitud de cambio de nombre (Request for Name Change):** le proporciona a la corte la información que necesita para poder aprobar su cambio de nombre. El formulario tiene que ser firmado también por una persona que lo conozca.
- **Aviso de presentación de una solicitud de cambio de nombre (Notice of Filing a Request for Name Change):** le informa al público que está solicitando a la corte que cambie su nombre; tiene que ser publicado en un periódico durante 3 semanas.
- **Orden de cambio de nombre (Order for Name Change):** este formulario es utilizado por el juez para otorgar o denegar su *Solicitud de cambio de nombre*.

#### ¿Cuánto tendré que pagar para cambiar mi nombre?

- **Cuota de presentación:** para presentar sus formularios ante el secretario de la corte de circuito.
- **Cuota de publicación:** para colocar su aviso en el periódico.
- **Cuota de copia certificada:** si le otorgan el cambio de nombre y necesita copias certificadas de la orden de la corte.

Si no puede pagar estas cuotas, puede pedirle a la corte que le otorgue una exención de cuotas.

#### ¿Qué hago después de llenar mis formularios?

##### **Paso 1 – Presente sus formularios ante el secretario de la corte de circuito del condado donde se inició el caso.**

- Haga copias de sus formularios para usted y para cada parte del caso.
- Llame al secretario de la corte de circuito y pregúntele cuánto costará presentar sus formularios y cómo puede pagar (efectivo, cheque, crédito, en línea).
- Si no puede pagar la cuota de presentación, llene y presente una *Solicitud de exención de cuotas de la corte (Application for Waiver of Court Fees)*, que podrá encontrar en: <http://www.illinoiscourts.gov/Forms/approved/>. Si ya le otorgaron una exención de cuotas para este caso de la corte, no hace falta que tome este paso.
- Presente sus formularios ante el secretario de la corte de circuito en persona, por correo o en línea, si es permitido.
- Cómo presentar en persona
  - Vaya a la corte del condado donde se inició su caso.
  - Déle al secretario de la corte de circuito sus formularios originales y las copias para que las selle.
  - El secretario de la corte de circuito se quedará con sus formularios originales y le devolverá las copias selladas.
  - Pague la cuota de presentación o presente su *Solicitud de exención de cuotas de la corte*.
- Cómo presentar por correo
  - Envíe sus formularios originales y una copia al secretario de la corte de circuito.
  - Incluya la *Carta al secretario de la corte de circuito (Letter to the Circuit Clerk)*, que puede encontrar en: <http://www.illinoiscourts.gov/Forms/approved/>.
  - Incluya un sobre con porte pagado y su dirección para que el secretario de la corte de distrito le pueda enviar a vuelta de correo su copia presentada-sellada.
  - Incluya el pago de la cuota de presentación o su *Solicitud de exención de cuotas de la corte*.
- Cómo presentar en línea

<sup>26</sup>Camille Ryan, Language Use in the United States: 2011, American Community Survey Reports, issued August 2013, available at <https://www.census.gov/prod/2013pubs/acs-22.pdf>.

Este formulario ha sido aprobado por la Corte Suprema de Illinois y todas las cortes de circuito de Illinois están obligadas a aceptarlo.			
<b>ESTADO DE ILLINOIS</b> <b>CORTE DE CIRCUITO</b>  <b>CONDADO DE</b> _____	<b>SOLICITUD DE CAMBIO DE NOMBRE (ADULTO)</b>	<i>Solo para uso de la corte</i>  <div style="text-align: center;"> <b>Solo para información</b>   <b>No entregue a la corte</b> </div>	
<b>Instrucciones ▼</b> Escriba más arriba el nombre del condado donde va a presentar el caso.  Escriba su nombre actual.  <b>NO</b> escriba un número de caso; el secretario lo agregará.	Solicitud de:  <b>Solo para información.</b> Su nombre actual ( <i>Nombre de pila, segundo nombre, apellido</i> ) _____		Número de caso _____

<b>Le pido a la corte que publique una orden para cambiar mi nombre, y declaro:</b>  <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 1, escriba su nombre actual completo.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 2, escriba el nuevo nombre completo que desea tener.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 3, escriba su dirección actual completa.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 4, escriba la fecha en que comenzó a vivir en Illinois.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 5, escriba el año en que nació. <b>NO</b> ponga su fecha de nacimiento completa.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 6, ponga la ciudad, condado, estado y país donde nació.         </div> <div style="border: 1px solid black; padding: 2px; margin-bottom: 5px;">           En 7, 8 y 9 indique si ha sido condenado o ha recibido una condena condicional por el delito indicado.         </div> <div style="border: 1px solid black; padding: 2px;">           Si marcó "he" en 7 u 8 y no ha sido perdonado, la corte no puede aprobar su cambio de nombre.         </div>	<ol style="list-style-type: none"> <li>1. Mi nombre actual es:  <b>Solo para información.</b>            _____  <i>Nombre de pila                      Segundo nombre                      Apellido</i> </li> <li>2. Quiero que mi nombre se cambie a:            _____  <i>Nombre de pila                      Segundo nombre                      Apellido</i> </li> <li>3. Mi dirección es: _____  <i>Calle                      Ciudad                      Estado                      Código postal</i> </li> <li>4. He vivido continuamente en Illinois por lo menos durante 6 meses, comenzando el: _____  <i>Fecha</i> </li> <li>5. Mi año de nacimiento es: _____  <i>Año</i> </li> <li>6. Mi lugar de nacimiento es: _____  <i>Ciudad                      Condado                      Estado/Provincia                      País</i> </li> <li>7. Yo <input type="checkbox"/> <b>he</b> <input type="checkbox"/> <b>no he</b> sido condenado o recibí una condena condicional por un delito que requiere que me registre como infractor sexual en Illinois o cualquier otro estado.</li> <li>8. Yo <input type="checkbox"/> <b>he</b> <input type="checkbox"/> <b>no he</b> sido condenado o recibí una condena condicional por robo de identidad o robo de identidad agravado en Illinois o cualquier otro estado.</li> <li>9. Yo <input type="checkbox"/> <b>he</b> <input type="checkbox"/> <b>no he</b> sido condenado o recibí una condena condicional por un delito grave en Illinois o en cualquier otro estado.</li> </ol>
----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

## Interested in Drafting Your Own Plain-Language Court Forms?

Limit drafting to proceedings where self-representation is high (family law, small claims, landlord/tenant, guardianship, name change, etc.). Include areas with a known history of avoidable litigant confusion. Identify proceedings where developing forms is not a priority (for example, cases where appointed counsel is available, cases that involve money and there are resources to hire counsel, and cases that are too complex).



## 4.2 Correspondence from the Court

### *Correspondence from the Court*

- Identify your audience (besides the person you are writing to, consider any additional readers)
- Organize letters to meet your users' needs
- Start with the main message
- After the main message, use an overview sentence about the content
- Use headings to organize the content
- Limit each paragraph to one topic
- Use bulleted lists
- Use a professional, compassionate tone
- Focus on the reader by using “you” and the active voice
- Use a sympathetic opening when appropriate
- Apologize, if appropriate
- Use terms such as “we regret” or “unfortunately” when delivering bad news
- Express requirements and requests clearly

### *Content – Writing with Clarity*

Don't assume your readers have knowledge of the subject or have read any related information.

- Clearly ask or explain in a way that your reader understands and knows what to do with the information.
- Eliminate unnecessary words. Be concise.
- Define and use terms consistently.
- Use the same words your reader would use.

#### **Use the Present Tense**

Write so the subject speaks as of the time it is applied, not as of the time it is drafted.

<i>Do not say:</i>	<i>Say:</i>
It was decided by the court to grant the request.	The court granted your request.

## Use Active Voice

Use the active voice in correspondence to communicate effectively. Active voice clearly identifies the action and who is performing that action. Unfortunately, much of legal and government writing is in the passive voice, giving documents a wordy, bureaucratic tone.

Active voice makes documents stronger by showing responsibility or giving credit for an action. When we don't identify the doer of the action, the sentence can sound vague. An active voice sentence generally uses fewer words to communicate the same information, and more closely resembles spoken language.

### *Active Voice*

- A sentence's voice indicates whether its subject acts or is acted upon. When the subject does something or acts, the verb is in the active voice.
- Active voice makes it clear who has acted and who is responsible for what action.
- Active voice is important so that readers can easily tell who did what action.
- Active voice follows natural sentence structure: doer-verb-receiver of action, i.e., "The attorney (doer) wrote (verb) the correspondence (receiver)".
- Passive voice reverses natural sentence structure. When the subject receives the action or is acted upon, the verb is in the passive voice.
- The correspondence (receiver) was written (verb) by the coordinator (doer).
- With passive voice, sentences are usually longer and responsibility is not as clear. Sentences written in the passive voice are obscure and often raise more questions than provide answers.

Passive:	The rule was adopted by the supreme court.
Active:	The supreme court adopted the rule.

<i>Do not say:</i>	<i>Say:</i>
If it is found that the applicant is qualified, a license will be issued.	The department will issue a license if it finds that the applicant is qualified.
The social worker performs an assessment of the child's injuries.	The social worker assesses the child's injuries.

## **Tone**

Tone in a document is the impression we leave about our professionalism, our attitudes toward the subject, and even our attitudes toward the reader. The choice of personal pronouns is an important factor in giving your document a friendly, personal, human tone.

### **Address the reader by name or as “you”**

Use “you” or “your” often to express a conversational tone. This will make your documents sound more natural, open, and much less bureaucratic.

### **Refer to yourself as “I” instead of “we”**

Using “I” instead of “we” when the document is clear that only one person carried out the action makes you seem more real to your reader. Refer to yourself or the person signing the letter as “I” instead of “we.” You will communicate accountability, a professional friendliness, and a personal interest in the document you are signing. Use “we” when you are referring to actions you and at least one other person carried out and “I” when referring to yourself as the subject of the action.

### **Avoid jargon**

Avoid unfamiliar, jargon. Use specific, concrete words to ensure the writing is as direct and clear as possible. For example, instead of writing “We need to move forward, seizing low-hanging fruit,” write “We need to move forward with an achievable goal.”

## Avoid Repetitive and Redundant Words

Redundant expressions needlessly repeat ideas and add no value to your documents. For example, in the expression “final outcome,” the word final is redundant because outcome implies finality.

Delete repetitious words. Ex. Each and every student voted to strike in protest.  
Correction: Each student voted to strike.

### *Redundant Words*

Do not use the same word or words that have the same meaning within a sentence.

<i>Do not say:</i>	<i>Say:</i>
The Child Support Department and the Child Welfare Department worked together on a joint project.	The Child Support and Welfare Departments worked on a project.

### *Avoid Redundancies*

Do not use word pairs if the words have the same effect or where the meaning of one includes the other.

Examples:

- any and all
- full and complete
- authorize and direct
- order and direct
- cease and desist
- each and every

### *Avoid Indefinite Words and References*

Examples:

- Frequently
- Untimely

- Unseasonable
- Temporarily
- Promptly
- Reasonably

<i>Do not say:</i>	<i>Say:</i>
Total disclosure of all facts is very important to make sure we draw up a total and completely accurate picture of your financial position.	Disclosing all facts is important to create an accurate picture of your financial position.

### *Superfluous and Verbose Expressions*

<i>Do not say:</i>	<i>Say:</i>
The attorney general is empowered to appoint such personnel as may reasonably be required to carry out the functions prescribed for his office.	The attorney general may appoint personnel to carry out the office's functions.
Absolutely null and void and of no effect	Void
Adequate number of	Enough
At the same time	When
At the place	Where
For the purpose of In order to	To
During such time as	While
By virtue of By means of	By, under

Give consideration to	Consider
Have knowledge of	Know
Is authorized and directed to Is directed to Is required to It is the duty	Shall
Is authorized to Is empowered to It shall be lawful	May
In case In the event that However or provided	If
Is able to	Can

### Write Positively

Express negative ideas in positive form.

<i>Do not say:</i>	<i>Say:</i>
A decision will not be made unless all information has been received.	A decision will be made when all information is received.
The request cannot be approved without payment.	The request will be approved when payment is received.

## Use Action Verbs

<i>Do not say:</i>	<i>Say:</i>
is applicable to	applies to
is concerned with	concerns
make payment	pay
denial	deny
Make application to	apply
give recognition to	recognize

## Hidden Verbs

Hidden verbs found in endings such as -ment, -tion, -sion, and -ance or link with verbs such as achieve, effect, give, have, make, reach, and take. Often, you will find a hidden verb between the words “the” and “of.”

<i>Do not say:</i>	<i>Say:</i>
If you cannot make the payment of the \$100 fee, you must make an application in writing before you file your form.	If you cannot pay the \$100 fee, you must apply for a fee waiver in writing before you file your form.

## Use Singular Nouns Rather Than the Plural Nouns

Using singular nouns instead of plural nouns avoids confusion of whether the noun applies separately or jointly.

<i>Do not say:</i>	<i>Say:</i>
The applicant shall submit the required fee or fees.	The applicant shall submit the required fees.
The guard will issue a security badge to each employee who works in Building D and each employee who works in Building E.	The guard will issue security badges to the employees who work in Buildings D and E.

*\*\*Exception: Use plural nouns for headings and titles.*

### Use Elliptical Clauses

An elliptical clause is a clause in which some words have been left out.

<i>Do not say:</i>	<i>Say:</i>
For excusable delays <b>that are</b> not caused by weather, the Department pays your added costs.	For excusable delays not caused by weather, the Department pays your added costs.
If the Court determines <b>that</b> a claim is without merit, you may...	If the Court determines a claim is without merit, you may...

### Use Parallel Phrases

Parallel phrases balance a sentence when a series of words, thoughts, or ideas appear in one sentence.

<i>Do not say:</i>	<i>Say:</i>
A copy may be obtained by mail or if a person appears personally.	You may obtain a copy by mail or in person.



## Avoid Prepositions

Avoid prepositions but do not eliminate them if non-parallel phrases are created as a result.

<i>Do not say:</i>	<i>Say:</i>
authority of the Judge	Judge's authority
order for the court	Court order

## Avoid Split Infinitives

An infinitive consists of the word to and the base form of a verb. A split infinitive occurs when another word is placed between to and the verb.

<i>Do not say:</i>	<i>Say:</i>
Be sure to promptly reply to the invitation.	Be sure to reply promptly to the invitation. <i>or</i> Be sure to reply to the invitation promptly.

## Avoid Adjectives

Adjectives composed of two or more words are usually hyphenated when they precede a noun, even though the phrase would not be hyphenated if standing alone, such as "low income," "one year," "full time," and "part time." This is necessary to avoid ambiguity.

<i>Do not say:</i>	<i>Say:</i>
A patron may purchase two dollar tickets.	A patron may purchase two-dollar tickets.
Low income persons may serve three year terms.	Low-income persons may serve three-year terms.

Do not hyphenate between an adverb ending in "ly" and the adjective it modifies. For example, "substantially new construction" does not need a hyphen.

### Using the Words *Shall, Will, Must, Should, and May*

shall	imposes an obligation to act, but may be confused with prediction of future action
will	predicts future action
must	imposes obligation, indicates a necessity to act
should	infers obligation, but not absolute necessity
may	indicates discretion to act
may not	indicates a prohibition

To determine whether the use of "shall" or "may" is correct, a helpful test is to mentally substitute for the word "may" the words "has the authority to" and substitute for the word "shall" the words "has the duty to." This reading will make it readily apparent whether the usage is correct.

<i>Do not say:</i>	<i>Say:</i>
The Governor shall approve it.	The Governor must approve it. [obligation] The Governor will approve it. [future action]
The department should ...	The department shall .....
The department should not ...	The department may not ...

## Avoid Unnecessary Qualifiers

Qualifiers do not add meaning to a sentence and will cause misinterpretations.

Examples:

- actual
- all (only use to differentiate between partial and whole quantities)
- any (only use to specify a choice)
- completely
- existing (with remove, reconstruct, salvage, abandon, or obliterate)
- Do not use respective and respectively.

<i>Do not say:</i>	<i>Say:</i>
All forms are listed under the names of their respective sections.	Forms are listed under the names of their corresponding sections.

## Avoid Use of Exceptions

State a rule or category directly. Do not describe the rule or category by stating its exceptions.

<i>Do not say:</i>	<i>Say:</i>
All persons except those 18 years or older...	Each person under 18 years of age...

Use an exception only to avoid long and cumbersome lists or elaborate descriptions. State the rule or category first then state its exception.

<i>Do not say:</i>	<i>Say:</i>
Alabama, Alaska,... (listing 47 states) and Wyoming must ration...	Each state except Texas, New Mexico, and Arizona must ration... (In this case the category "each State" is established first and then the exceptions are stated.)

Do not use general phrases such as "except as otherwise specified" or "except as otherwise shown." Be specific and state the particular items to which the specification does not apply. Use "Specify:."

### Write Short Sentences/Questions

It is difficult to determine the intended meaning of a complex sentence. Readable sentences are simple, active, affirmative, and declarative. The more a sentence deviates from this structure, the harder the sentence is to understand. Follow these guides for writing sentences:

1. State one thing and only one thing in each sentence.
2. Divide long sentences into two or three short sentences.
3. Remove all unnecessary words. Strive for a simple sentence with an implied subject and implied verb. Eliminate unnecessary modifiers.

<i>Do not say:</i>	<i>Say:</i>
When the device is not in use for less than one work shift, turn off the device.	When the device is not in use during a work shift, turn it off.
In the event that the director objects to the filing of the complaint, the director, in his discretion, may file a responsive pleading subsequent to the filing.	If the director objects to the complaint, the director may file a responsive pleading.

### Be Consistent

Use simple specific words. Do not use abstract, vague, or different words to say the same thing.

<i>Do not say:</i>	<i>Say:</i>
Each motor vehicle owner must register their car with the Department of Motor Vehicles.	Each automobile owner must register their automobile with the Department of Motor Vehicles.

## Use Parallel Structure

Arrange sentences so that parallel ideas look parallel. When using lists, the lead-in sentence along with each item in the list should read as though it is a stand-alone sentence.

Use lists and numbered steps when presenting information that has several parts or is chronological. Even if the information isn't too complicated, a list adds white space and helps with understanding.

<i>Do not say:</i>	<i>Say:</i>
The duties of the Executive Secretary of the Administrative Committee are: <ul style="list-style-type: none"><li>• To take minutes of all the meetings</li><li>• The Executive Secretary answers all the correspondence</li><li>• Writing of monthly reports</li></ul>	The duties of the Executive Secretary of the Administrative Committee are to: <ul style="list-style-type: none"><li>• Take minutes of all meetings</li><li>• Answer all correspondence</li><li>• Write monthly reports</li></ul>

## Use Preferred Expressions

<i>Do not say:</i>	<i>Say:</i>
in accordance with conformance with as determined by	according to
subsequent to	after
permit permitted	allow allowed
at no cost to the Petitioner	at the Agency's expense
for the reason that due to the fact that	because

prior to	before
commence initiate	begin
alter modification revision	change
adequate number of sufficient number of	enough
excluding	except
in the interest of with reference to	for
when subject to in case in the event that provided that	if (except use when in reference to time and where in reference to location)
in lieu of	instead of
deems	is
retain	keep

When choosing a word, balance the following:

- Use the most basic word.
- If the most basic word has many definitions and if those definitions can cause confusion, use a more precise word.
- Use industry-standard words.
- When a law is referenced, use the core words of the law. Do not use the legalese, if possible.

## Omit Needless Words

<i>Do not say:</i>	<i>Say:</i>
with regard to	about
located at at the following location	at
because of the fact that	because
by means of	by
at no time	do not
during the course of during the duration of	during
for the period of	for
in a manner that in a manner which	how
in the event of should it appear that	if
including, but not limited to	including
at a later date	later
on a monthly basis	monthly
close proximity	near
there will be no	no
related to	of
pertaining to	of, about
such that	that

so as to in order to	to
as a means of for the purpose of	to, for
until such time	until

### Use Simple Language

<i>Do not say:</i>	<i>Say:</i>
Accorded, afforded	given
cease	stop
ascertain	determine
cognizant of	aware of
deem	consider
effectuate	carry out
execute	sign
indicate	show
institute	begin, start
interrogate	question
of each year	annually
opt for	choose
optimum	best
preserve	keep



pursuant to	under
subsequent	later
summons	send for, call, request

For more plain language alternatives, see section [5.1 Plain Language Alternatives to Commonly Used Terms](#).

### Ranges of Numbers, Days, Dates, and Ages

To specify ranges of numbers, ages, and dates: to, through, between, and from.

<i>Do not say:</i>	<i>Say:</i>
From July 1, 2002, to. . .	After June 30, 2002, and before. . .
Between July 1, 2002, and. . .	After June 30, 2002, and before. . .
Before July 1, 2002. . .	To (or until or by) June 30, 2002. . .
between the ages of 17 and 45	17 years old or older and under 46
who has passed his 17th birthday [or who is 17 years old or older] unless you mean who is 18 years old or older	who is more than 17 years old
over 17 members	at least 18 members not fewer than 18 members

### Statutory language

What to do when you can't change the legal language? Avoid citing statutory language. If you have to keep it, keep it small. Provide a hyperlink to direct the user to a specific section. <https://docs.legis.wisconsin.gov/statutes/prefaces/toc>

Legalese:

- Remove legalese language (therefore; whereas; hereafter; wherein; etc.).
- Rewrite in a way that the reader will understand.
- When a law is referenced, use the core words of the law.

Definitions:

- It is important not to define a word in a sense significantly different from the way it is normally understood by the persons to whom it is primarily addressed.
- Rewrite to try to eliminate the need for most definitions.
- Define the word where you use it in your form.
- If you must have a definition section, place it at the beginning or the end of your form and direct word definitions within the form with hyperlinks.

### **Acronyms**

Define initialisms and acronyms when first introduced. For example, “American Bar Association (ABA).” Thereafter, refer to the entity defined only by the initials or acronym. If the entity is mentioned only once in a writing, do not use the initials or acronym but rather the full name.

### **Bulleted Lists**

Use bulleted lists to clarify text. These lists make text simple and emphasize important points.

### **Colloquialisms**

Avoid using colloquial phrases in correspondence as they will confuse the reader. Colloquial language includes slang, but also informal words, phrases known only to native speakers of the language, and regional/local phraseology.

## **4.3 Websites**

### ***Web Accessibility***

What is web accessibility? In simple terms, it is ensuring that every visitor to a website is able to access, navigate and understand all of the content displayed.

Web accessibility is for everyone, irrespective of the method of access. Website users can be broadly categorized into three groups:

1. Users who are not visually impaired and use a mouse to navigate and access content on a website. These ‘sighted’ users can easily look through the content without assistance. These users also benefit from web accessibility features such as “alt” text for images wherein they can just hover over the image and see information about it rather than having to click on the image.
2. Visually impaired users or those that use a keyboard to navigate a website. These users require web accessibility features enabled so as to provide them with the same access to content as ‘sighted’ users. For example, having “link outline” enabled helps keyboard users find their way on the webpage by highlighting the link that their ‘cursor’ is on. Without an outline it is nearly impossible to find your place on a website. See example below.
3. Users with assistive devices such as screen readers gain the maximum benefit from web accessibility. Screen readers read aloud the content on the webpage including images, navigation, hyperlinks etc. Without web accessibility features, these users face an uphill task to access and navigate a webpage. For example, a simple “alt” text for an image helps these users as the assistive device would read aloud the “alt” text to help the user understand that this is an image with a title. Without web accessibility, imagine trying to access, understand and navigate a webpage with the monitor off. It is impossible to know your place on the page much less navigate it.

Keeping all these users in mind, it is every web developer’s responsibility to ensure that their sites, forms, documents and other media are accessible to users by implementing web accessibility guidelines to the fullest extent possible.

There are several resources available to help implement web accessibility. Here are some guidelines:

- Web Accessibility Initiative (WAI):  
<https://www.w3.org/standards/webdesign/accessibility>
- Web Accessibility in mind (WebAIM) : <https://webaim.org/>
- Web Content Accessibility Guidelines (WCAG):  
<https://www.w3.org/WAI/standards-guidelines/wcag/>

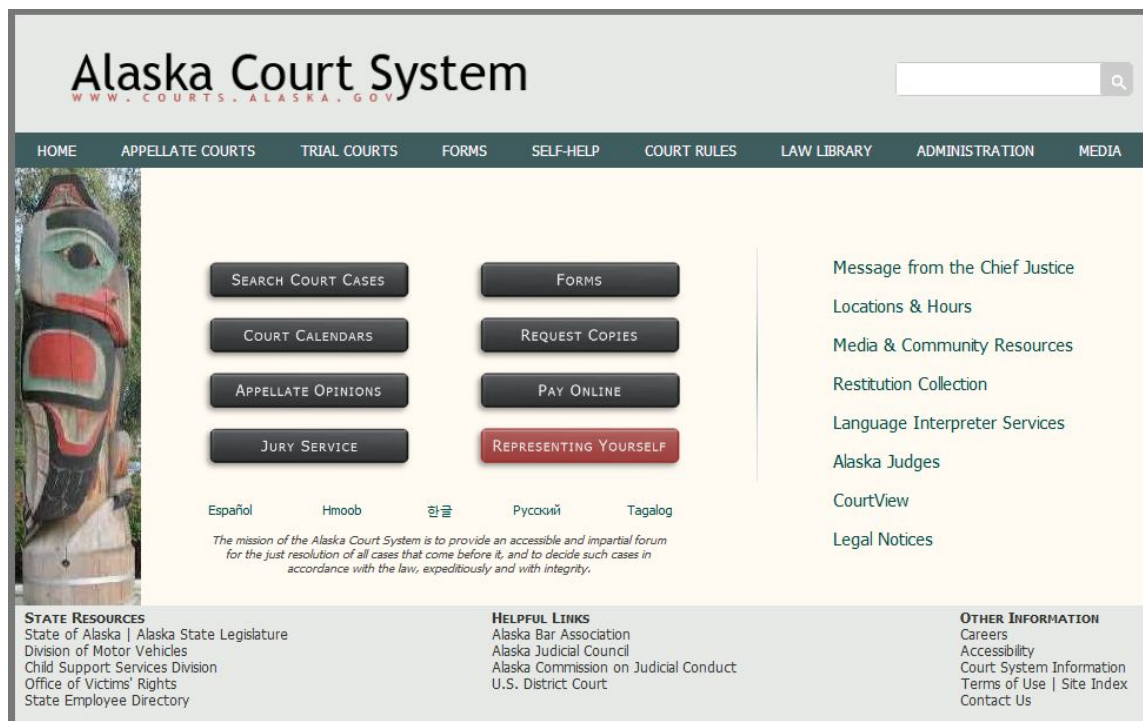
- U.S. Government-wide IT Accessibility Program – Section 508:  
<https://www.section508.gov/>

Tools to check for web accessibility:

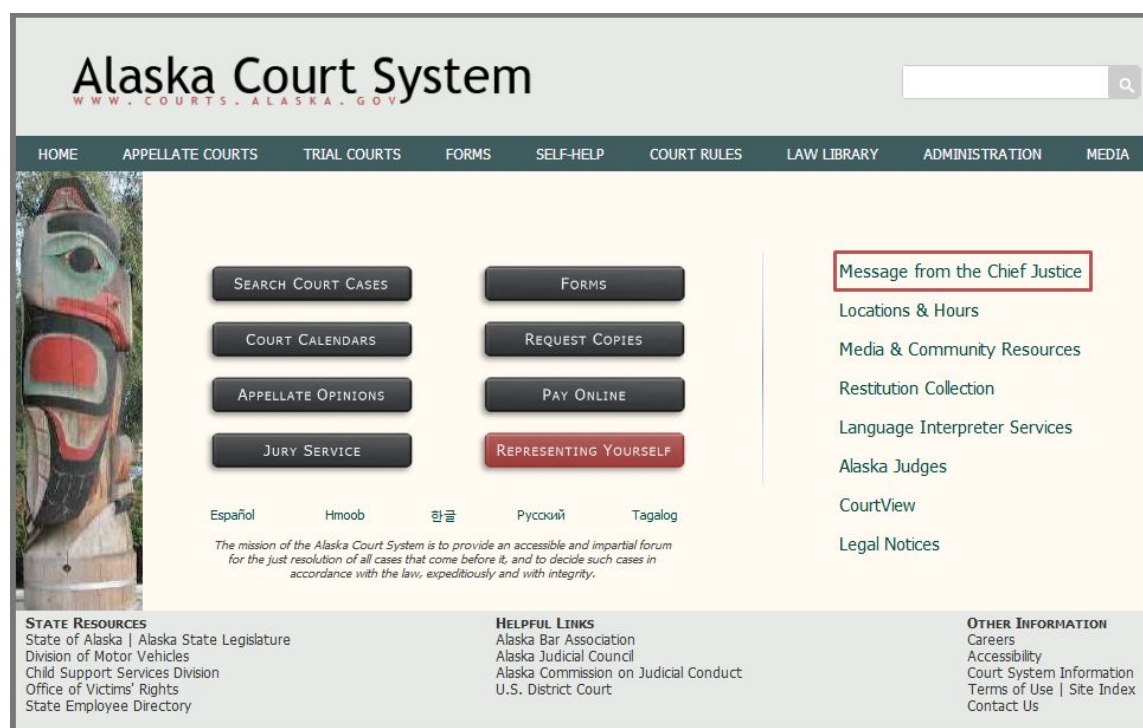
- Web Accessibility Evaluation Tools List - <https://www.w3.org/WAI/ER/tools/>

*Example of a webpage without outlines for links*

Do you know where you are?



(Hint: The link that is in focus/tabbed over is “Message from the Chief Justice”, the first link in the right hand side menu bar.)



The same web page with an outline for a link that is in focus or tabbed on, which gives the keyboard user a visual cue as to the location of the cursor. Options for styling of the outline range from a simple dotted border to solid lines of color as shown below. No matter the style, it should still meet accessibility guidelines.

## **Tools**

### **WriteClearly**

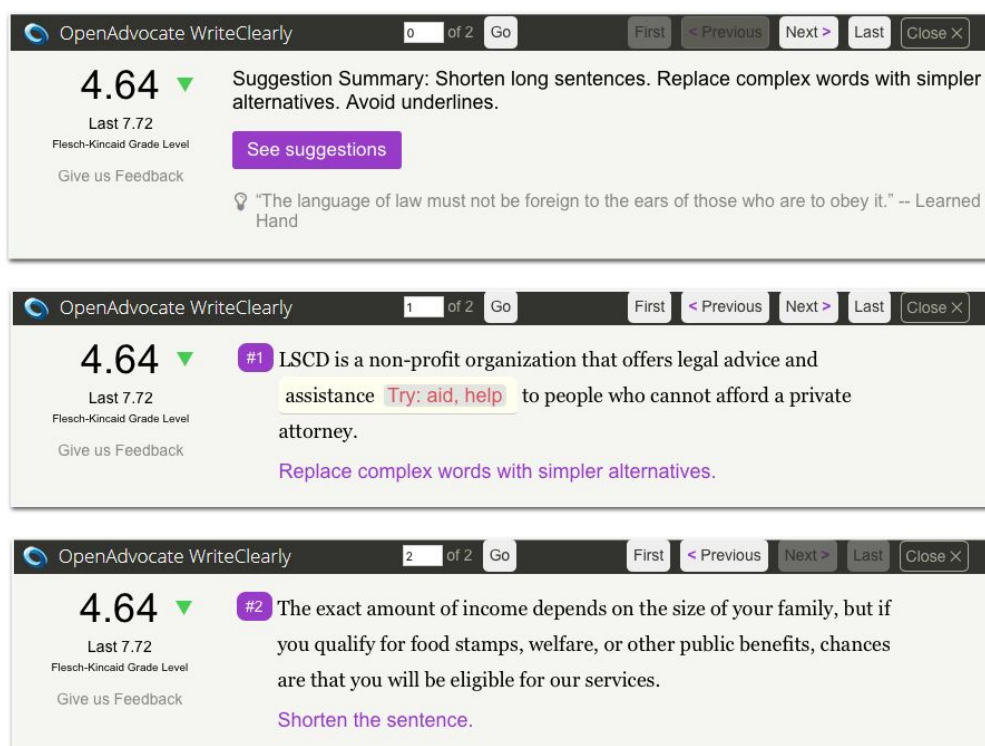
Web experts recommend that web content should be at 8th grade reading level <sup>27</sup> or lower in order to reach a broad audience. Writeclearly is a free web tool that is designed for helping authors write more readable web content. WriteClearly analyzes the reading grade level of a web page and offers suggestions for improving readability. WriteClearly is a web browser “bookmarklet” which a snippet of code that can be easily saved as a web browser bookmark. You do not need to install any software.

Get WriteClearly at <http://openadvocate.org/writeclearly>

Once you have WriteClearly installed as a bookmarklet in your web browser’s bookmarks toolbar, visit a web page you want to analyze and then click/select the bookmarklet. WriteClearly will analyze the web page and display a panel with the results. (To inspect only part of the text on a web page, select the text and then click on the WriteClearly bookmark.)

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<sup>27</sup> Jakob Nielsen, *Lower-Literacy Users: Writing for a Broad Consumer Audience*, <https://www.nngroup.com/articles/writing-for-lower-literacy-users/> March 14, 2005 (accessed Nov 9, 2018)



WriteClearly will display Flesch-Kincaid Grade Level<sup>28</sup> of the web page along with a summary of the suggestions. By clicking on the “See suggestions” you can review all the suggestions. (The suggestion number is added to corresponding section in the web page as a purple marker. )

1. WriteClearly identifies complex words and suggests simpler synonyms.
2. Short paragraphs are easier to read and understand. WriteClearly identifies long paragraphs and suggests breaking them into several shorter paragraphs.
3. Shorter sentences are better for conveying complex information. WriteClearly identifies long sentences and suggest breaking up into smaller sentences.
4. On the Internet, text in ALL CAPS is associated with “yelling.” Excessive use of ALL CAPS makes text harder to read. WriteClearly identifies excessive use of ALL CAPS and suggests avoiding the practice to improve readability.

<sup>28</sup> Wikipedia, Flesch–Kincaid Readability Tests  
[https://en.wikipedia.org/wiki/Flesch%E2%80%93Kincaid\\_readability\\_tests](https://en.wikipedia.org/wiki/Flesch%E2%80%93Kincaid_readability_tests) (accessed Nov 9, 2018)

5. Large passages of underlined text look ugly and are hard to read. On the web, underlined text can also be mistaken for a link. WriteClearly catches instances of underlined text and suggests avoiding it to improve readability.
6. Multiple exclamation points should be avoided in professional writing. WriteClearly identifies instances of multiple exclamation points and suggests toning it down.
7. Bold and italics should be used sparingly as they reduce readability of text. WriteClearly identifies excessive use of bold and italics.
8. Don't use "Click Here" for links as it degrades web accessibility of the web page. WriteClearly catches instances of "click here" and suggests avoiding the practice.
9. Images on web pages should have alternative text to make the content understandable in screen readers. WriteClearly displays an alert when a page has images without alternative text.

The development of WriteClearly was funded by a Technology Initiative Grant ("TIG")<sup>29</sup> from the Legal Services Corporation ("LSC").<sup>30</sup>

## ReadClearly

Legal web content presents unique challenges for the web author due to complexity of legal information. While rewriting legal content to use plain language is helpful, it is not always possible to eliminate legal terms completely. ReadClearly is a free tool that enables website visitors to look up explanations for complex legal terms on your website. ReadClearly's pre-built glossaries are designed to assist with improving the readability of legal services websites.

It's easy to add ReadClearly to a website. Just add a Javascript code snippet to your website and ReadClearly does the rest. To install ReadClearly please see <https://github.com/openadvocate/readclearly/blob/master/HOWTO.md>.

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<sup>29</sup> Learn more about TIG <https://www.lsc.gov/grants-grantee-resources/our-grant-programs/tig>.

<sup>30</sup> Abhijeet Chavan, Improve Readability of Web Content With WriteClearly, Innovations in Legal Aid, Jan 22, 2018, <https://medium.com/innovations-in-legal-aid/improve-readability-of-web-content-with-writeclearly-3-0-2a2d2f64a74a> (accessed Aug 29, 2018).



Once installed, ReadClearly highlights words that are in its glossary of complex legal terms. The web page visitor can then click on the word to see a plain language explanation.

juvenile court that handled the delinquency or child in need of services case.

When deciding whether to grant the petition, the juvenile court may review:

- The best interests of the child.
- The age of the person during the person's contact with the juvenile court or law enforcement agency.
- The nature of any allegations.
- Whether there was an informal adjustment or an adjudication.
- The disposition of the case.
- The manner in which the person participated in a case or action.
- The time during which the person has been without custody of the juvenile court or with any law enforcement agency.
- Whether the person acquired a criminal record.
- The person's current status.

If expungement is granted, the records may be destroyed or given to the person who requested expungement.

The judge's decision in a case or action.

Was this hint helpful?

Yes No

i

✓

ReadClearly offers a choice of four pre-built glossaries:

1. *Basic English Legal Glossary with Spanish Explanations* (349 terms) For English-language websites. The 100 most commonly used English terms have Spanish explanations to assist bilingual readers.
2. *Common Usage Spanish Legal Glossary* (100 terms) For Spanish-language websites.
3. *Expanded Plain Language English Legal Glossary* (1763 terms) Plain language explanations to assist readers understand advanced-level legal content.
4. *Basic English Legal Glossary* (349 terms).

In addition to the pre-built glossaries offered by ReadClearly, you have the option to use glossaries contributed by other users, or contribute your own. Contributed glossaries can be found in our GitHub repository <https://github.com/openadvocate/readclearly>.

The development of ReadClearly was funded by a TIG from the LSC.<sup>31</sup>

## 4.4 Building Signage

**How can we deliver the message of “welcome, we respect you, whatever situation brings you to our house?”**

Building signage should be considered the first step to minimizing an otherwise confusing, frightening experience for first time court users. When people understand a process, they are more accepting to decisions, even if the decision is unfavorable. In the justice system, minor adjustments such as helping court users navigate a courthouse may translate into increased compliance with court orders and enhanced perceptions of legitimacy.<sup>32</sup> Ultimately, improving procedural justice through improved signage creates a welcoming atmosphere, helps court users navigate the building more easily, and communicates rules and procedures clearly and respectfully.

Implementing or improving building signage may follow a Why? Where? How? process.

**Why** should we care or invest in building signage? The referenced study, “Improving Courthouse Signage”, identified the initiative as two primary elements of procedural justice:

- Treating people respectfully; and
- Helping them understand key procedures.

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<sup>31</sup> Abhijeet Chavan, Add Legal Glossaries To Websites with ReadClearly, Innovations in Legal Aid, Jan 22, 2018, <https://medium.com/innovations-in-legal-aid/add-legal-glossaries-to-websites-with-readclearly-3-0-57d62a3baf31> (accessed Aug 29, 2018)

<sup>32</sup> RALPH POPE-SUSSMAN, IMPROVING COURTHOUSE SIGNAGE: PROCEDURAL JUSTICE THROUGH DESIGN (Center for Court Innovation 2015).

If a court is using this plain language guide to improve understanding by the court user of court procedures, forms and communication; it is imperative that this goal be extended to the arrival and departure of the court user.

In its publication, “What do Defendants Really Think?”,<sup>33</sup> The Center for Court Innovation found that people are more likely to perceive the justice system as fair when they feel they are treated with respect, understand the process, have opportunities to be heard, and that decision-makers are unbiased.

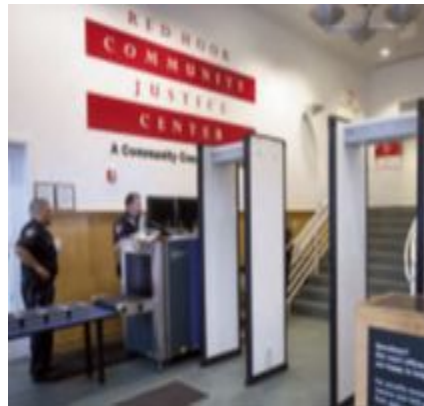
**What** can we do to achieve this improved understanding?

- Create a welcoming atmosphere through logos and welcoming signage, including the court’s mission in a visible, prominent location;
- Enable court visitors to navigate the courthouse more easily with building directories by the elevator on every floor and clearly identified courtrooms; and,
- Communicate court rules and procedures clearly and respectfully, such as cell phone, dress attire, and recording device policies.

*Before:*



*After:*



**Where** should this improved signage be located? Eye-level, visible signage with well-known terminology will lessen the “fear of the unknown” in the court user.

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<sup>33</sup> RACHEL SWANER ET AL., WHAT DO DEFENDANTS REALLY THINK?(Center for Court Innovation 2018), available at <https://www.courtinnovation.org/publications/what-do-defendants-really-think>, accessed November 13, 2018.

Performing a walk-thru of your courthouse with a friend who has never been there will help you see what a new court user sees. Where would they look for directions? In the elevator? Upon exiting the elevator? As you walk down a corridor? At a turning point in the corridor? Don't expect the court user to remember where the arrow was pointing when they exited the elevator. Constantly encourage them that they are going in the right direction with repeated signs with simple labels and legible lettering.

Investing in professional, commercial signs versus typed paper signs tells the court user that he/she is worth the time, effort and investment.

*Before:*



*After:*



**How** can we deliver the message of “welcome, we respect you, whatever situation brings you to our house?”

Be cognizant of court users with limited abilities, whether it is language needs or physical needs. Place signage at a level that someone with a physical disability can easily read. Include signage in languages most commonly used in your area. On the topic of language access, The National Center for State Courts refers to ‘Wayfinding’ in their report and recommendation to California courts.<sup>34</sup>

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<sup>34</sup> National Center for State Courts, Wayfinding and Signage Strategies for Language Access in the California Courts: Report and Recommendations, Judicial Council of California (February 2017), available at [www.courts.ca.gov/languageaccess.htm](http://www.courts.ca.gov/languageaccess.htm), accessed October 19, 2018.

- Include signage that directs court users with impaired hearing on where to go for assistance;
- Assure that signs at elevators and corridors and courtroom entrances have raised and Braille characters;
- Identify those areas limited to court staff in clear language;
- We've discussed using symbols and icons versus wordy documents and forms in earlier sections. Building signage lends itself to these types of signs. Not only do recognized symbols accomplish delivery of the message at first sight, the cost of signage is reduced;



- Rethink language that is common to court staff but confusing to the court user, such as “community supervision.” Replace this term with “probation.”
- Avoid signage that may be confusing. For example, replace “payments” with “court costs and fine payments”; and
- Revise or fine tune signage along the way if you see it is ineffective or misleading.

The Tennessee Supreme Court Access to Justice Commission during its 2012 Clerks' Conference listed easy steps to assisting the self-represented litigant navigate an unknown territory full of uncommon phrases and words.

- Keep sentences to fifteen words or less;
- Never use ALL CAPS or *italics*. This formatting makes words harder to read.
- Use common terms as much as possible. Use 'lawyer' instead of 'attorney'; and,
- Use contractions. Use 'can't' instead of 'cannot.'

Remember that eliminating or minimizing fear of the unknown for the court user allows them to develop trust and confidence in the justice system, even at a time when the outcome is uncertain.

## 4.5 Training Court Professionals

Within federal agencies, complying with the Plain Language Writing Act of 2010 is measured by Report Cards.<sup>35</sup> The Report Card grades federal departments within each agency and advises them how to improve.

The two main criteria are:

1. **Compliance** - Does the agency content submitted fulfill the requirements of the [Plain Writing Act of 2010](#)?
2. **Writing and Information Design** - Do the samples consistently make documents and web pages easier to read, understand and use?

Since this concept of using plain language in our courts is not mandated, there are no Report Cards. However, NACM encourages court managers to review current court processes, forms, building signage, websites, and other materials and implement the use of plain language to ensure all communications are easily understood by court customers. Using the Report Card as a guide, courts can make their best effort to comply with the Act even if not mandatory.

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<sup>35</sup> Center for Plain Language/Reports,  
<https://centerforplainlanguage.org/reports/federal-report-card/>

## ***Establish a Plain Language Committee***

Creating a governance structure around a large and iterative process is integral to success. When establishing your Plain Language Committee, identify and assign a key member from each department to review the current court processes; forms; and other materials for their respective areas. For example, judicial officers, forms attorneys, clerks of court, and division supervisors (criminal, civil, probate, etc.). This committee would then:

1. Develop a plain language drafting process,
2. Educate respective staff on style and formatting guidelines,
3. Designate persons to oversee ongoing compliance<sup>36</sup> with established guidelines,
4. Develop training modules on the usage of plain language,
5. Test new forms and customer service scripts, and
6. Prioritize the forms drafted in plain language.

Communicating the benefits of using plain language in court materials early on in the process will go a long way to change the court culture so that use of plain language becomes systemic in your court.

## ***Design a Checklist for Implementing Plain Language***

Design a Checklist for Implementing Plain Language in Court Processes and Forms

### *Example Checklist*


✓ / X	AREA:	ACTION:
	<b>Mission Statement</b>	
	<b>Court Customers</b>	
	Instructions on Courtroom Decorum	
	Public Signage in Courtrooms	

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<sup>36</sup> Administrative Conference of the United States, Plain Language in Regulatory Drafting, December 2017, <https://www.acus.gov/recommendation/plain-language-regulatory-drafting>, accessed May 9, 2018.

	Juror Education – What to Expect if Summoned?	
	Instructions for Self-represented Litigants	
	Kiosks and Electronic Court Dockets	
	Process for Communicating with a Judge	
	<b>Forms:</b>	
	Court Notices	
	Generic Court Orders	
	Self-Help Documents	
	Attorney Appointment/Reimbursement Forms	
	Juror Instructions	
	Grand Juror and Petit Juror Oaths	
	<b>Personnel:</b>	
	Orientation Materials	
	Staff Training Manuals	
	Job Descriptions (Roles & Responsibilities)	
	Strategic Plan	
	Addressing the Media	
	Public Speaking	
	Telephone Etiquette	
	Social Media Etiquette	
	Coordinator’s Oath and Understanding the Canons	
	Filing a Grievance	
	<b>Example:</b>	
√	Court Notices	<p>Can the notice be easily understood after the first reading?</p> <p>Does the notice tell the person receiving it what he or she must</p>



		<p>do, if anything?</p> <p>Could images be used in the notice to help further communicate the message? For example:</p> <p>Affix postage </p> <p>See other examples in the <a href="#">Court Forms section 4.1</a>.</p>
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### ***Test New Forms and Customer Service Scripts***

Employing the methods for testing discussed in Chapter 3, test your court forms and customer service scripts (verbal communication) to ensure that others easily understand the information being communicated.



## 5 Tools and Resources

1. [Center for Plain Language](#): They offer resources to help government agencies and businesses write so clearly that their intended audience understands what they are saying the first time they read or hear it.
2. [FDA: Plain Writing: It's the Law!](#) Explains [Plain Writing Act of 2010](#), and explains how to improve the effectiveness and accountability of Federal Agencies to the public by promoting clear communication that the public can use and understand.
3. [Federal Plain Language Guidelines](#): The Plain Language Action and Information Network (PLAIN) is a community of federal employees dedicated to the idea that citizens deserve clear communications from government.
4. [How Users Read on the Web](#), by NN/G Nielsen Norman Group, *Evidence-Based User Experience Research, Training, and Consulting*: Research shows that 79 percent of the test users scanned a web page, and 16 percent read word-by-word. This article explains how to write scannable text for web content.
5. [Illinois Courts Access to Justice Standardized State Forms](#): Illinois standardized state forms examples.
6. [Legal Writing in Plain English](#), by Bryan Garner: This book takes a practical approach to legal writing. The author has three decades of experience working with law students, lawyers and judges. Practical exercises accompany each section of the book.
7. [Plain English and the Law](#): The legal consequences of clear and unclear communication. This booklet highlights the importance and benefits of clear communication from a legal perspective. Explains how plain English can save time and money by avoiding unnecessary legal costs.

8. [Plain Language Disaster Sheets to help people affected by natural disasters:](#) Sample print flyers.
9. [Plain Language Examples](#), *British Columbia Web Content and Development*: The British Columbia government lists plain language examples, word lists, and usage.
10. [ReadClearly](#): ReadClearly identifies complex legal terms on your website and displays a plain language explanation.
11. [SRLN Brief: Plain Language Resources for 100% Access](#): As described by the federal government on plainlanguage.gov, plain language is communication your audience can understand the first time they read or hear it.
12. [The Office of the Federal Register \(OFR\) Plain Language Tools: Writing Resources](#): The Office of the Federal Register (OFR) offers resources to help writers comply with the Plain Writing Act of 2010 and Presidential Memorandum of June 1, 1998 – Plain Language in Government Writing.
13. [Transcend–Plain Language Tips for Courts & Law](#): Transcend, a translation agency, offers plain language tips.
14. [Transcend–Plain Language Works for Pro Per Litigants](#), by Maria Mindlin and Katherine McCormick: An article about plain language and how it works.
15. [Usability.gov: Improving the User Experience: Writing for the Web](#): People read differently online than they do when they read print materials – web users typically scan for information. This article helps explain how to write specifically for web pages.
16. [Webinar: How to Incorporate Plain Language into Court Forms, Websites, and Other Materials](#): The National Association for Court Management, in partnership with the Self-represented Litigation Network (SRLN) provides this webinar.
17. [WriteClearly](#): Use WriteClearly to test the reading grade level of a web page.

18. [Writing For Self Represented Litigants. A guide for Maryland's courts and civil legal services providers](#): Addresses writing for the needs of self-represented litigants in order for them to better understand what they are reading.
19. [Behavioral Insights Communications Checklist from the Department of Labor](#): Quick tool to make sure you are communicating effectively.
20. *Article*: [Plain Language in Government Suffers in 2017](#): Highlights the importance of usable FAQ pages and infographics on websites. Provides insight into what the Center for Plain Language looks for when assessing government web pages and resources for usability. Includes seven criteria upon which the Center assesses resources.
21. *Webinar*: [Infographics: Plain Language Considerations](#): Discussion about effective plain language infographics. Discusses considerations and questions as you plan creation of an infographic. Moves to understanding effective use of data in infographics. Ends with a discussion of effective communication with target audience through infographics.
22. [Writing for Self-Represented Litigants](#): A guide produced by the Maryland Access to Justice Commission.
23. *Article*: [Self-Help, Reimagined](#): Discusses the social science behind the use of plain-language and graphics in instructional materials in the law.



## ***5.1 Plain Language Alternatives to Commonly Used Terms***

### **A**

(an) absence of	no, none
abundance	enough, plenty, a lot (or say how many)
accelerate	speed up
accentuate	stress
accommodation	where you live, home
accompanying	with
according to our records	our records show
acquire	buy, get
accordingly	so
accrue	add, gain
accurate	correct, exact, right
achieve	do, make
additional	added, more, other
address	discuss
adjacent to	next to
adjustment	change, alteration
admissible	allowed, acceptable
admit	agree
adopt	approve
advantageous	useful, helpful
advise	recommend, tell
advise	tell, say (unless you are giving advice)
affix	add, write, fasten, stick on, fix to
aforesaid	this, earlier in this document
aggregate	total
alter	change
alleviate	ease, reduce
allocate	divide, share, give
alternative	(a) choice, (the) other
amendment	change
anticipate	expect
apparent	clear, plain, obvious
appear	seem
applicant (the)	you
apprise	inform, tell
appropriate	proper, right, suitable
approximately	about, roughly
as a consequence of	because
ascertain	find out, learn
as of the date of	from
assist, assistance	aid, help
attain	reach, get, win
attempt	try
attorney	lawyer

**B**

benefit  
 by means of  
 belated  
 beneficial  
 bestow  
 breach  
 by means of

help  
 by, with  
 late  
 helpful, useful  
 give, award  
 break  
 by

**C**

calculate  
 capias  
 capability  
 caveat  
 cease  
 circumvent  
 clarification  
 commence  
 communicate  
 competent  
 compile  
 complete  
 completion  
 comply  
 components  
 comprises  
 (it is) compulsory  
 conceal  
 concept  
 concerning  
 conclude  
 concur  
 condition  
 consequently  
 considerable  
 constitutes  
 consult  
 contains  
 contemplate  
 contrary to  
 correspond  
 counter  
 courteous  
 cumulative

work out, decide  
 warrant  
 ability  
 warning  
 finish, stop, end  
 get round, avoid, skirt, circle  
 explanation, help  
 start, begin  
 talk, write, telephone (be specific)  
 able, can  
 make, collect  
 fill in, finish  
 end  
 do, follow  
 parts  
 is made up of, includes  
 (you) must  
 hide  
 Idea, plan  
 about, on  
 end, finish  
 agree  
 rule  
 so  
 great, important  
 is, forms, makes up  
 talk to, see, meet  
 has  
 think about  
 against, despite  
 write  
 against  
 polite  
 added up, added together

**D**

decree  
 deduct

order  
 take off, take away

deem  
defer  
demonstrate  
depart  
directive  
designate  
desire  
determine  
detrimental  
develop  
disburse  
discharge  
disclose  
discontinue  
discuss  
disseminate  
dissolution  
documentation  
domiciled in  
duration  
during which time  
dwelling

## E

effect modifications  
elapse  
elect  
eligible  
eliminate  
emphasize  
employ  
empower  
encounter  
endeavor  
enumerate  
enquire  
ensure  
enter  
equitable  
equivalent  
erroneous  
establish  
evaluate  
evident  
examine  
exceedingly  
excessive  
exclude

believe, consider, think  
put off, delay  
prove, show  
leave  
order  
appoint, choose, name  
want, wish  
decide, figure, find  
harmful, damaging  
grow, make  
pay, pay out  
carry out  
show  
drop, stop  
talk about  
give, issue, pass, send  
divorce  
papers, documents  
living in  
time, life  
while  
home

make changes  
pass, go by  
choose, pick  
allowed, qualified  
cut, drop, end  
stress  
use  
allow, let  
meet  
try  
count  
ask  
make sure  
approve, order, sign  
fair  
equal  
wrong  
set up, prove, show  
test, check  
clear  
check, look at  
highly  
too many, too much  
leave out, do not include

excluding  
exclusively  
exempt from  
exhibit  
expedite  
expeditious  
expend  
expertise  
expiration  
expire  
extended

## **F**

fabricate  
facilitate  
factor  
failed to  
favorable  
feasible  
final  
finalize  
forfeit  
formulate  
forthwith  
forward  
frequently  
function  
fundamental  
furnish  
furthermore

## **G**

generate  
grant

## **H**

has the capacity  
henceforth  
hereby  
herein  
heretofore  
herewith  
however

## **I**

identical  
identify  
imply

apart from, except  
only  
free from  
show  
hurry, speed up  
fast, quick  
pay, spend  
ability  
end  
run out  
long

make, make up  
ease, help  
reason  
didn't  
good  
can be done, workable  
last  
complete, finish  
give up, lose  
plan, devise  
now, at once  
send  
often  
act, role, work  
basic  
give, send  
then, also, and

produce, give, make  
give

can, is able  
from now on  
now, by this (or edit out)  
here  
until now  
below, here  
but

same  
find, name, show  
suggest, hint at



immediately  
impacted  
Impairment  
implement  
in accordance with  
in advance  
in addition  
inasmuch as  
inappropriate  
in case of  
in conjunction with  
in consequence  
in excess of  
inform  
in lieu of  
in order that  
in order to  
initial  
initiate  
in receipt of  
in regard to  
in relation to  
in respect of  
in the absence of  
in the course of  
in the amount of  
in the event of  
in the near future  
in the neighborhood of  
issue  
is applicable to  
is authorized to  
is of the opinion  
it appears  
it is known that  
it is requested

**J**  
justify

**L**  
liaison  
(a) large number of  
legislation  
locality  
locate

at once  
affected, changed  
problem  
carry out, start  
by, following, per, under  
before  
also, besides, too  
since  
wrong, unsuitable  
if  
and, with  
because, as a result  
more than  
tell  
instead  
for, so  
to  
first  
start  
get, have, receive  
about, concerning, on  
about, with, to  
about, for  
without  
while, during  
for  
if  
shortly, soon  
about, around  
give, send  
applies to  
may  
thinks  
seems  
I/we know that  
please, we request, I request

prove

discussion  
many, most (or say how many)  
law  
place, area  
find, put

## M

magnitude	size
maintain	keep, support
majority	most
manufacture	make
marginal	small, slight
material	relevant
materialize	happen, occur
maximum	greatest, largest, most
minimum	least, smallest
modify	change
monitor	check, watch
moreover	and, also, as well
motion	request

## N

narrate	tell
necessitate	cause, need
negligible	very small
nevertheless	but, however, even so
notify	let know, tell
notwithstanding	in spite of, still
numerous	many

## O

objective	aim, goal
obligate	bind, compel
observe	see
obtain	get, receive
occupation	job, work, business
occur	happen
operational	working
on behalf of	for
on numerous occasions	often
optimum	best, ideal
option	choice
originate	start, came from
otherwise	or
outcome	result
outstanding	unpaid

## P

parameters	limits
participate	join in, take part
perform	do
permissible	allowed
per annum	every year

permit  
pertaining to  
peruse  
portion  
position  
possess  
possessions  
possibility  
practically  
precede  
presently  
preclude  
predominant  
prescribe  
preserve  
previous  
principal  
prior to  
probability  
procedures  
proceed  
procure  
proficiency  
programmed  
prohibit  
projected  
promptly  
promulgate  
provide  
provisions  
purchase  
pursuant to

## R

recapitulate  
reconsider  
reduce  
reflect  
regarding  
relocation  
regulation  
reimburse  
reiterate  
relocate  
render  
remain  
remuneration  
render

let  
about, of, on  
read, read carefully, look at  
part  
place  
have, own  
belongings  
chance  
almost, nearly  
go before, come before  
now, soon  
prevent  
main  
set, fix  
keep, protect  
earlier, past  
main  
before  
chance  
Rules, way  
go ahead  
get, obtain, arrange  
skill  
planned  
ban, stop  
estimated  
quickly, at once  
issue, publish  
give, offer, say  
rules, terms  
buy  
by, following, per, under

sum up  
think again about, look again at  
cut  
say, show  
about, of, on  
move  
rule  
repay, pay back  
repeat, restate  
move  
make, give, send  
stay  
pay, payment  
give, make

represents  
request  
require  
requirement  
reside  
retain  
review  
revised  
revocation

## S

selection  
shall  
significance  
similar  
simultaneously  
solely  
solicit  
specified  
state  
statutory  
subject  
submit  
subsequently  
substantial  
sufficient  
supplement  
supplementary  
supply  
surrender  
surmise  
susceptible

## T

terminate  
thereafter  
thereby by that,  
therefore  
therein  
thereof  
thereto  
the undersigned  
thus  
timely  
transfer  
transmit  
transpire

shows, stands for, is  
ask  
must  
need  
live  
keep  
look at (again)  
new, changed  
cancel, withdraw

choice  
must  
meaning, point  
like  
at the same time  
only  
ask for  
given, written, set  
say, tell us, write down  
legal, by law  
the, this, you  
send, give  
after, later, then  
large, much  
enough  
go with, add to  
extra, more  
give, sell, deliver  
turn in  
guess  
open to

end, stop  
then, afterwards  
because of that  
so  
there  
its, their, of that  
to that  
I  
so, therefore  
prompt  
change, move  
send  
happen, occur

## U

ultimately  
unavailability  
undersigned  
undertake  
unilateral  
unoccupied  
utilize

in the end, finally  
lack of  
I, we  
agree, promise, do  
one-sided, one-way  
empty  
use

## V

validate  
verbatim  
viable  
variation  
vice  
virtually  
visualize

confirm  
exact  
practical, workable  
change  
instead of, versus  
almost (or edit out)  
see, predict

## W

warrant  
whatsoever  
whereas  
with reference to  
with the exception of  
witnessed  
whether or not  
with reference to  
with regard to

call for, permit  
whatever, what, any  
because, since, but  
about  
except for  
saw  
whether  
about  
about, for

—

## About the Authors

### Aurora Zamora, Chair

Aurora Zamora is employed with the Texas Office of Court Administration as a Court Services Consultant. In this role Aurora trains court personnel and court clerks and provides technical assistance to any of the courts in Texas in the area of case management and court processes. Aurora has been a member of the National Association for Court Management since 2003.



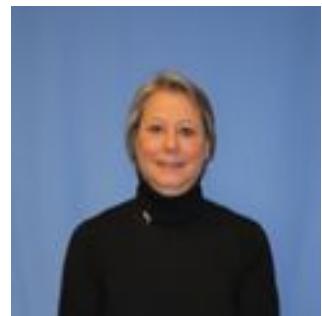
### Alyce Roberts, Co-Chair

Alyce Roberts works in the Administrative Office of the Alaska Court System where she serves as the special projects coordinator. In this capacity, she is the Administrative Office's primary liaison with clerks of court and is responsible for the management of statewide projects. Ms. Roberts has been a member of the National Association for Court Management since 2009, is currently serving on the NACM Board, and is the Communications Committee Chair. She is a Fellow of the Institute for Court Management (2010).



### Terri Borrud

Terri first began working with forms and Form Management Programs over 38 years ago while employed with a large insurance company in Madison, Wisconsin. She set up their first "forms management program" for their home office and 7 branch offices. She has worked in various capacities of forms management over the years as an analyst, designer, sales representative and manager. She joined the Wisconsin Supreme Court, Director of State Courts office in the Court



Operations Department in 2005 where she manages nearly 1,000 court forms. She also staffs the Wisconsin Records Management Forms Committee which consists of judges, court commissioner, clerks of court, juvenile court clerk, register in probate, district court administrator, a member from the state bar and district attorney's office. This committee creates and maintains all the circuit court forms through an extensive review and approval process.

## Abhijeet Chavan

Abhijeet Chavan has over 20 years of technology consulting experience with public sector, higher education, and non-profit clients. He is a consulting manager with *Tyler Technologies, Inc.* Abhijeet was named to the *Fastcase 50* list of global legal innovators in 2017. He regularly presents at conferences on access to justice and artificial intelligence. Abhijeet sits on committees of the *State Bar of California*, *American Bar Association*, and *National Association for Court Management*. Previously, Abhijeet served as chief technology officer of a consulting firm; created legal tools *WriteClearly*, *ReadClearly*, and *DLAW*; co-founded a media business; and managed geographic data projects. Abhijeet has graduate degrees from the University of Illinois at Urbana-Champaign.



## Renee L. Danser, Esq.

Drawing on her knowledge of justice system operations and the pressures on the justice system, Ms. Danser joined the *Access to Justice Lab* at *Harvard Law School* to incorporate rigorous research into improving access to justice. Ms. Danser believes that for our research to be impactful, we must recognize the strengths and weaknesses of the communities reviewing and incorporating it. Using her court management and non-profit leadership experience, Ms. Danser encourages courts and the justice community to think about their needs and the needs of their



users and how to successfully balance those interests. Reach Ms. Danser at [rdanser@law.harvard.edu](mailto:rdanser@law.harvard.edu).

## Colleen Horvath

Colleen Horvath is a Technical Writer and Analyst for the *Maryland Judiciary* in Annapolis, Maryland. Previously, she was a documentation specialist working for large private law firms in Information Systems and Training.



## Sanjay Kodidine

Sanjay Kodidine has over 25 years of programming experience and is currently the webmaster for the *State of Alaska Court System*. He is actively involved in web design and ensuring that the Court System's websites are user friendly and accessible.



## Erika Rickard, Esq.

Erika Rickard is the Senior Officer of a new initiative at *The Pew Charitable Trusts*, focused on modernizing the civil legal system. Before joining Pew, she was a researcher at the Access to Justice Lab, which conducts rigorous research on access to justice and court administration at *Harvard Law School*. Rickard has worked in the Massachusetts courts as the state's first Access to Justice Coordinator, developing policies, programs, and technologies to improve access to justice for underserved communities. She previously represented MA state agencies in trial and appellate practice as an Assistant Attorney General, and has taught courses on Restorative Justice at *Tufts University* and 21st Century Legal

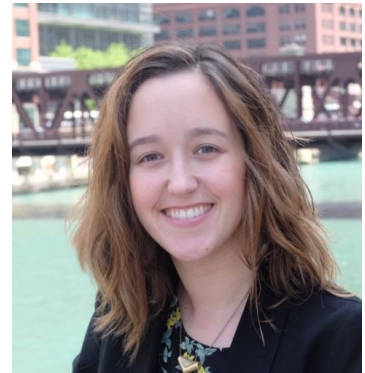




Profession at *Suffolk Law School*. She currently serves on the *Massachusetts Access to Justice Commission*. Rickard can be reached at [erickard@pewtrusts.org](mailto:erickard@pewtrusts.org). (Rickard's contributions to this guide were written prior to her work with Pew.)

## Allison D. Spanner

Alison Downs Spanner works for the *Illinois Supreme Court* in the Access to Justice Division at the Administrative Office of the Illinois Courts. Alison staffs the *Illinois Supreme Court Commission on Access to Justice* and has worked on a variety of policy matters including the creation of plain language legal forms, an Illinois Supreme Court approved Plain Language Policy, procedural fairness, improving remote access to courts through technology, increasing awareness of and addressing implicit bias, and developing community trust and public confidence in the courts. She is also an adjunct legal writing professor at *Loyola University Chicago School of Law*.



Alison began her career in private practice where she worked on a wide range of matters including appeals, legal malpractice, family law, contract disputes, and employment litigation. Allison holds a Bachelors of Philosophy in Interdisciplinary Studies, *Miami University*, Oxford, OH, 2007; and, a Juris Doctor, *Chicago-Kent College of Law*, 2010.





# How to Incorporate Plain Language into Court Forms, Websites, and Other Materials

November 29, 2017, 2pm ET  
National Association for Court Management (NACM)  
Self-Represented Litigation Network (SRLN)

# Introduction of Panelists



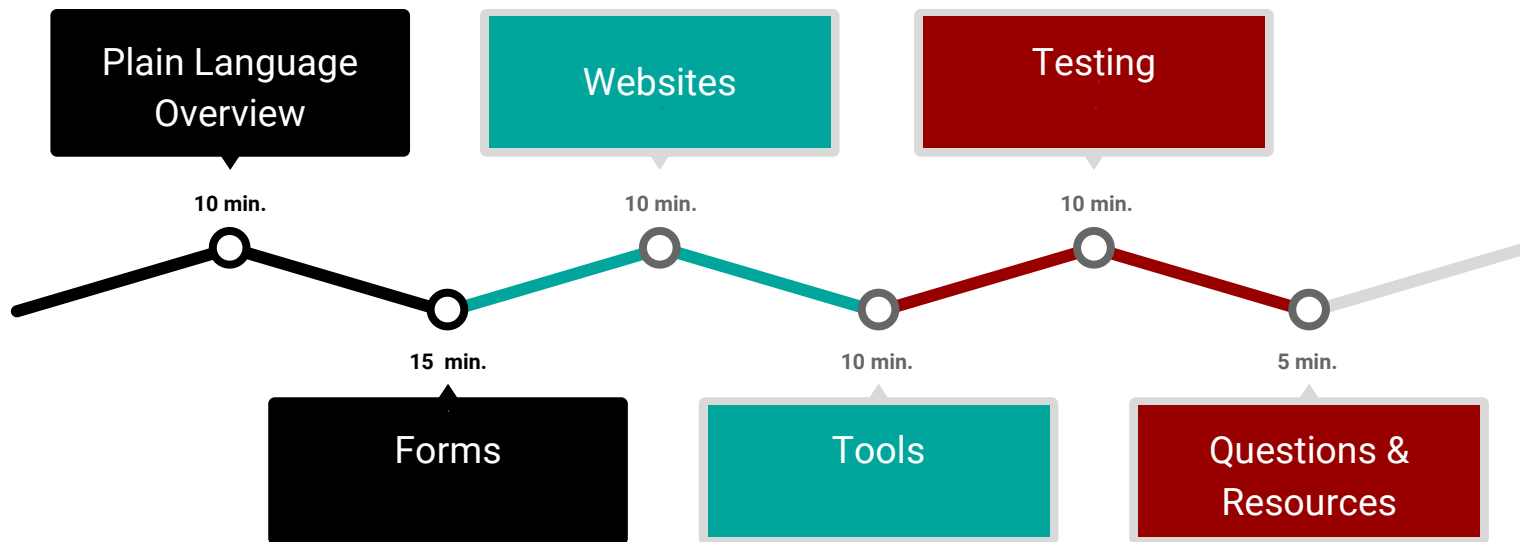
Erika Rickard  
[erickard@law.harvard.edu](mailto:erickard@law.harvard.edu)

Abhijeet Chavan  
[chavan@openadvocate.org](mailto:chavan@openadvocate.org)

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[renee@srln.org](mailto:renee@srln.org)

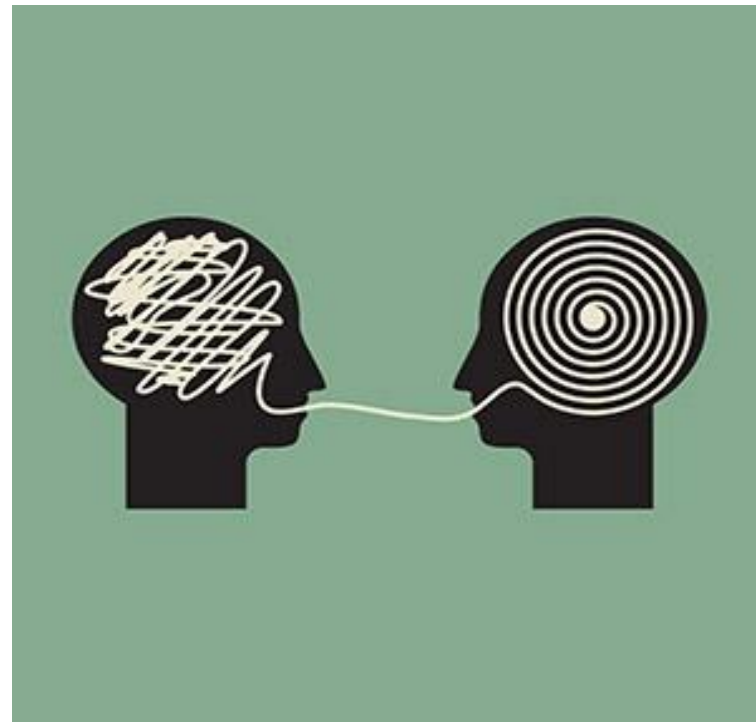
# Roadmap



# What is Plain Language?

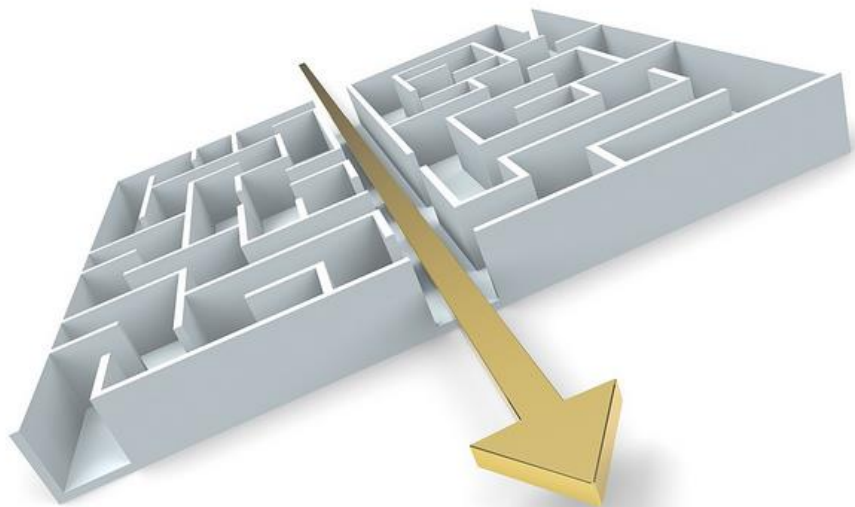
## Communication that:

- Your audience will understand the first time they read it.
- Enables your audience to:
  - Find what they need
  - Understand what they find
  - Use what they find to meet their needs



# Why prioritize plain language?

- Improve the user experience
- Save time and money



# Plain Language Basics

To start:

**write for your audience**

When you write:

## Use

- Personal pronouns
- Active voice
- Common words
- Bulleted lists
- Short sentences

## Avoid

- ALL CAPS
- Legalese and jargon
- ~~Needless~~ words

# A few examples

## Before

Court notice will be sent after answer is filed.

VIOLATION OF THIS ORDER IS SUBJECT TO CRIMINAL PROSECUTION. Violation of this restraining order may be punishable as a contempt of court, a misdemeanor, or a felony. Taking or concealing a child in violation of this order may be a felony and punishable by confinement in state prison, a fine, or both.

## After

File your answer. After you file your answer, the court will send you a notice of your court date.

If you do not obey this order, **you can be arrested and charged with a crime.** It is a felony to take or hide a child against this order. You can go to prison and/or pay a fine.



# Headings, layout and bulleted lists matter

United States Postal Service  
**Sorry We Missed You! We'll Deliver for You**

Item is at: ☒ Post Office (See back)

Available for Pick-up After: Date: 12-5-05 Time: 0900

Sender's Name: 00085

We will re-deliver or you or your agent can pick up. See reverse.

☒ If checked, you or your agent must be present at time of delivery to sign for item

Article Number(s): 9121 0700 90563 0035836

59

Notice Left Section  
Customer Name and Address: Jc Lynch  
430 Centennial 1005B  
Delivered By and Date

Article Requiring Payment: ☐ Postage Due ☐ COD ☐ Customs \$

Final Notice: Article will be returned to sender on

PS Form 3849, November 1999

**Sorry We Missed You!**

We have an item for

It was sent by

The item was

A payment may be due

We are holding your item

We will re-deliver or you can pick it up. Go to: [www.USPS.com/redelivery](http://www.USPS.com/redelivery) or see reverse.

UNITED STATES POSTAL SERVICE

PS Form 3848, May 2008

**How to get your item...**

These items require a signature

Article no.

These items do not require signature

Article no.

Tell us what to do

☐ Re-deliver it to me  
Please leave it here:   
This option is not available if your signature is required.  
The best day to re-deliver:

☐ I will pick it up myself  
Please bring this form and proper I.D.

☐ Someone will pick it up for me  
I will sign below to authorize

Sign to authorize re-delivery or pick-up by others

Your item is at:

Your package I.D. is:

Brooklyn, NY/Adelphi  
950 Fulton Street  
Brooklyn, NY 11238-9097

5293 0289 6599 5004

For more information go to: [www.USPS.com/redelivery](http://www.USPS.com/redelivery)

UNITED STATES POSTAL SERVICE

PS Form 3848, May 2008 (Reverse)

We will re-deliver OR you or your agent can pick up your mail at the post office. (Bring this form and proper ID. If your agent will pick up, sign below in item 2, and enter agent's name here):

1. Check all that apply in section 2:  
a. Sign in section 2 below;  
b. Leave this notice where the carrier can see it.

2. Sign Here to Authorize Redelivery or to Authorize an Agent to Sign for You:

Signature: ☒ Redeliver (Enter day of week:)

(Allow at least two delivery days for redelivery, or call your post office to arrange delivery.)

Leave item at my address (Specially where to leave. Example: "porch", "side door". This option is not available if box is checked on the front requiring your signature at time of delivery.)

USPS

PS Form 3849, November 1999 (Reverse)

# Create ample white space

Before
620 words  
6.5 grade reading level

Original Text

## YOUR TESTIMONY

During the preliminary hearing, evidence suppression hearings, or during the trial, you should be questioned by the prosecutor and the defense attorney. The prosecutor may discuss courtroom rules and testimony with you before court appearances.

The following are some pointers for testifying in court:

- Be truthful. Never exaggerate or shade your testimony. Just tell the facts, simply and concisely, as you know them.
- Be attentive. Listen carefully to the questions. If you do not understand a question, ask that it be repeated or explained. Answer only the question asked.
- Do not try to say everything at once or volunteer information that is not requested.
- Explain your answer, if necessary. If a question cannot be answered truthfully and fully with a "yes" or "no," you have the right to ask the judge to permit you to explain after first answering "yes" or "no."
- Do not guess. If you do not know an answer, do not be afraid to say so. Do not try to figure out whether your testimony will help or hurt the prosecution or the defense. Just answer questions to the best of your knowledge.
- Be patient. Wait until the attorney finishes the question before answering.
- Be prepared. Do not try to memorize what you are going to say; try to recall relevant facts.
- While in trial, do not talk to jurors, prospective jurors or anyone who may be a juror.
- If asked, "Have you talked to anyone about the case?"—do not forget your conversations with the prosecutor, defense attorney, and staff members such as paralegals, investigators or victim advocates.
- When an attorney objects to a question, do not answer the question until the judge rules on the objection and instructs you to answer the question. If the judge agrees with the grounds for an objection, the objection will be "sustained." When the judge does not

believe the objection has merit, the objection will be "overruled." If you are confused, ask the judge for direction.

- Remain calm and courteous. Do not lose your temper or become angry, as it may diminish the impact of your testimony.
- Speak clearly and loudly. Always face the person questioning you, and speak clearly enough to be heard by the jury. Do not simply nod for a "yes" or shake your head for a "no" or say "uh huh" or "uh uh." The court reporter must be able to clearly understand your responses and record them for the official court records.
- Dress neatly. Do not wear shorts, tank tops or hats. Always show respect for the court. For example, chewing gum and disruptive behavior are acceptable in court. Be yourself. The judge, jurors and attorneys are human also and appreciate sincerity.

### RELATIVES AND FRIENDS IN COURT

Relatives and friends may elect to attend court proceedings. The deputy district attorney or the victim advocate will instruct friends and relatives on the rules of the court pertaining to them. The following are suggestions on courtroom behavior for visitors:


- Dress neatly. Take hats off. Remember to show respect for the court.
- Leave drinks and food, including gum, outside of the courtroom.
- Smoke only in designated areas and never in the courtroom.
- Stand when instructed to do so by the judge or bailiff. This will usually only occur when either the judge or the jury enter or leave the court.
- Never talk loudly or for a prolonged period of time. Save conversation for breaks. Keep gestures, facial expressions and head shaking to a minimum.
- NEVER attempt to talk with a member of the jury.
- Wait until the jury exits before leaving when the court recesses.

*Excerpt from Department of Justice Handbook*

After
303 words  
3.6 grade reading level

Transcend  
Plain Language Text

## When Witnesses and Victims Go to Court




### Be prepared:

- Get to Court 30 minutes early and find your courtroom.
- When the courtroom opens, go in and tell the clerk or officer you are present. They may ask you to wait in the hallway until it's time for you to testify.
- Most courtrooms do not allow children.

### When you are in court:

- Dress neatly. Do not wear shorts, tank tops or hats. Do not chew gum.
- Do not talk to jurors, the judge or the defendant.
- Be calm and polite to everyone. Stay calm. Avoid gestures and facial expressions.
- If friends or relatives come to court with you, ask them to follow these rules, too.



### You will raise your right hand and swear to tell the truth.

- The judge or lawyers will ask you questions. Wait until they finish the question before you start to answer.
- Tell the truth and don't exaggerate.
- Give complete answers.
- Speak slowly and speak loud enough so the people in court can hear you.
- Be yourself and just say what happened. (Do not try to memorize what you are going to say.)
- Always look at the person who is asking you questions.
- Say "Yes" or "No" out loud. A court reporter will write down everything you say. So, you must use words. It's not enough to nod or shake your head.
- If one of the lawyers objects, do not answer until the judge says you can.
- Only answer the question asked. If they want more information, they will ask you more questions.
- If you do not understand a question, say, "I don't understand".
- If you do not know an answer, say, "I don't know".
- If they ask you "Have you talked to anyone about the case?" you must mention your conversations with the D.A., defense lawyer, investigators and/or victim advocates.

# Give specific, concrete action steps

## BEFORE

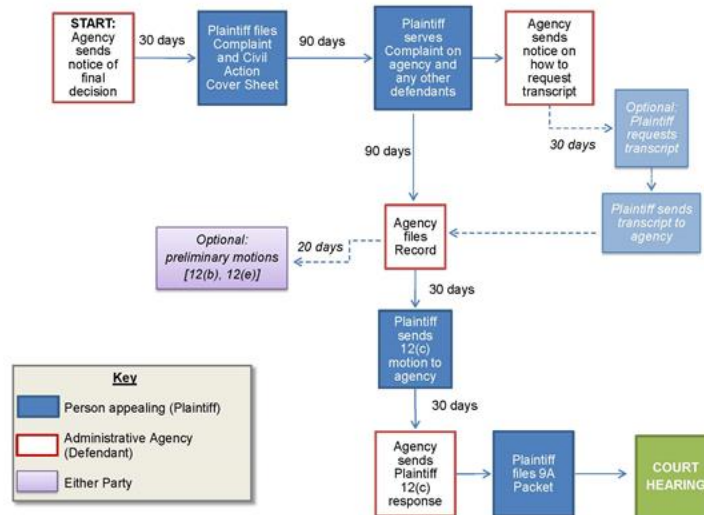
### 30A

An appeal from an administrative agency decision, also referred to as a “30A appeal,” or a request for “judicial review of an administrative agency decision,” is what you file in the Superior Court when you want a judge to review a final decision made by a state agency. You have 30 days from the date of the decision to file a 30A appeal. The moving party files the complaint, civil action cover sheet, and filing fee with the Clerk’s Office, and receives a summons to serve along with the complaint on the opposing party/ies within 90 days of filing. The opposing party has 90 days to respond. The opposing parties serve the moving party with the answer and administrative record and any transcript requested. Within 30 days of receipt, the moving party serves copies of the motion, memorandum and all supporting papers on all other parties, without filing with the Court. The opposing parties serve the original opposing memorandum and papers (to be filed by the moving party with the Court), and serve copies of all opposing memoranda and papers on all parties, including the moving party. Oppositions to motions are served 30 days after service of a motion (except a summary judgment motion, which must be served within 20 days of filing of the administrative record and must adhere to the provisions of Rule 9A). After time for a response has passed, the moving party assembles a “Rule 9A package” for filing with the Superior Court, which includes its motion and supporting papers and timely opposition memoranda and supporting papers. “A separate document accompanying the filing shall list the title of each document in the Rule 9A package”. If the moving party doesn’t receive an opposition in the time permitted, it files its motion and supporting papers along with an affidavit “reciting compliance with this rule and receipt of no opposition in timely fashion, unless the moving party has notified all parties that the motion has been withdrawn.” Upon filing the Rule 9A package, the moving party gives “prompt notice of the filing of the Rule 9A package to all other parties by serving... a copy of a certificate of notice of filing on a separate document.” (See Rule 9A(b)(2), Rule 9A(b)(3) and Rule 9A(b)(4) for exceptions to this procedure.)

### Appeals

## AFTER

### ADMINISTRATIVE APPEALS FLOWCHART



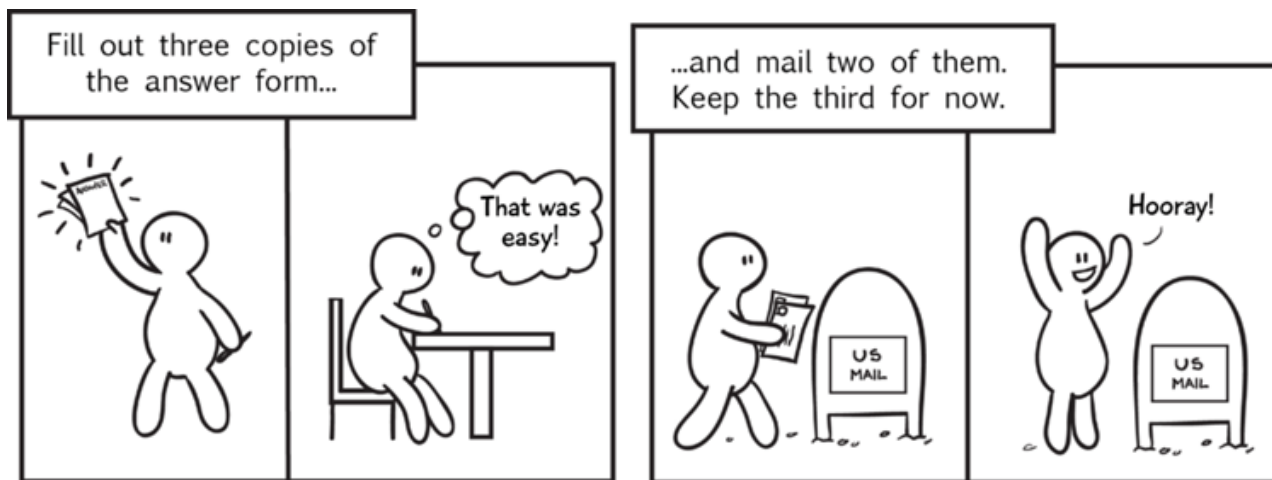
Note: this chart demonstrates a typical administrative appeal. Not all appeals will follow this exact process.

# Combine words and pictures

## Text:

Once you have received the complaint, mail copies of your Answer to both the Plaintiff and the Court.

## Cartoon:



# Forms



# How to approach forms

Ask yourself:

- What does the user need to know?
- What information does the user need to provide?
- What are you really trying to say with this form?

# Best practices when revising forms

- Avoid statutory language
  - If you have to keep it, keep it small!
- Not just removing legalese
  - Re-write in a way that the user will understand
- Simplicity might mean you lose nuance
- Tension of length vs clarity
  - Bigger font size and more white space might mean multiple pages



# Before

## Superior Court of Washington County of \_\_\_\_\_

In re:

and

Petitioner,

Respondent.

No. \_\_\_\_\_

### Pro se Notice of Appearance (APPS)

The undersigned enters an appearance in this action, and demands notice of all further proceedings. The Clerk of the Court and the opposing party will be informed of any change in address. Any notices may be sent to [You may list an address that is not your residential address where you agree to accept legal documents.]

Service Address:

Any time this address changes while this action is pending, you must notify the opposing parties in writing and file an updated Confidential Information Form (WPF DRPSCU 09.0200) with the court clerk.

Phone Number: Listed on Confidential Information Form.

Dated: \_\_\_\_\_

Signature of Party Appearing

# After

Superior Court of Washington, County of \_\_\_\_\_

In re:

Petitioner/s (person/s who started this case):

And Respondent/s (other party/parties):

No. \_\_\_\_\_

Notice of Appearance  
(for a party without a lawyer)  
(APPS)

## Notice of Appearance (for a party without a lawyer)

1. My name is: \_\_\_\_\_.
2. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.
3. I agree to accept legal papers for this case at the following address  
(this does **not** have to be your home address):

street address or PO box

city

state

zip

4. (Optional) I also agree to accept legal papers for this case at the following email address:

Sign here

Date

If this address changes before the case ends, you must notify all parties and the court clerk in writing. You may use the form Notice of Address Change (FL All Family 120). You must also update your Confidential Information form (FL All Family 001) if this case involves parentage or child support.



Superior Court of Washington, County of \_\_\_\_\_

In re:

Petitioner/s *(person/s who started this case)*:

\_\_\_\_\_

And Respondent/s *(other party/parties)*:

\_\_\_\_\_

No. \_\_\_\_\_

Notice of Appearance  
(for a party without a lawyer)  
(APPS)

### Notice of Appearance (for a party without a lawyer)

1. My name is: \_\_\_\_\_.
2. I am filing this notice to appear in this case. I must be notified of any court hearings and receive copies of any papers filed in this case.
3. I agree to accept legal papers for this case at the following address  
*(this does **not** have to be your home address)*:

\_\_\_\_\_

*street address or PO box* *city* *state* *zip*

4. *(Optional)* I also agree to accept legal papers for this case at the following email address:

\_\_\_\_\_.

\_\_\_\_\_  
Sign here

\_\_\_\_\_  
Date

If this address changes before the case ends, you **must** notify all parties and the court clerk in writing. You may use the form *Notice of Address Change* (FL All Family 120). You must also update your *Confidential Information* form (FL All Family 001) if this case involves parentage or child support.

# Overcoming challenges to implementation

- Be the change you wish to see:
  - create a draft before seeking feedback
- Educate your colleagues about plain language
  - It's more than just checking the reading level
- Engage multiple stakeholders in the process
  - Who controls the form?

# Translations + instructions

- Plain **language**, not just plain English
  - Translations should also be in plain language
- If the form needs instructions, it's not a good form
- Forms can be combined with plain language instructions about the process
- Changing a form = an opportunity for changing a process

This form is approved by the Illinois Supreme Court and is required to be accepted in all Illinois courts.

<b>STATE OF ILLINOIS, CIRCUIT COURT</b> _____ COUNTY		<b>REQUEST FOR NAME CHANGE (ADULT)</b>	<i>For Court Use Only</i>
<b>Instructions ▼</b> Enter above the county name where you will file this case. Enter your current name. <b>DO NOT</b> enter a Case Number, the Circuit Clerk will add it.	Request of: _____ Your current name (First, middle, last name)		_____ Case Number

In 1, enter your complete current name.

In 2, enter the new full name you would like.

In 3, enter your complete current address.

In 4, enter the date you started living in Illinois.

In 5, enter the year you were born.  
**DO NOT** enter your entire date of birth.

In 6, enter the city, county, state, and country where you were born.

In 7, 8, and 9 check whether you have or have not been convicted or put on probation for the crime listed.

I ask the court to enter an order to change my name, and I state:

- My current name is:  
 \_\_\_\_\_  
 First Middle Last
- I wish my name to be changed to:  
 \_\_\_\_\_  
 First Middle Last
- My address is: \_\_\_\_\_  
 Street City State ZIP
- I have lived continuously in Illinois for at least 6 months beginning: \_\_\_\_\_  
 Date
- My year of birth is: \_\_\_\_\_  
 Year
- My place of birth is: \_\_\_\_\_  
 City County State/Province Country
- I ☐ have ☐ have not been convicted of or placed on probation for a crime which requires me to register as a sex offender in Illinois or any other state.
- I ☐ have ☐ have not been convicted of or placed on probation for identity

TEST FORM

NOTICE OF PETITION

Non-Payment Dwelling

Petitioner's Residence:

TEST

TEST

TEST

Business Address:

TEST FORM

TEST

TEST

TEST

against Petitioner (Landlord)

Respondent (Tenant)  
Address

Respondent (Undertenant)

First name of Tenant and/or Undertenant being fictitious and unknown to petitioner;  
Person intended being in possession of the premises herein described\*

To the respondent[s] above named and described, in possession of the premises hereinafter described or claiming possession thereof:

PLEASE TAKE NOTICE that the annexed petition of  
verified the day of prays for a final judgment of eviction, awarding to the  
petitioner possession of premises described as follows: Apartment No. on the floor.  
consisting of rooms, in premises known as and located at

County of in the City of New York, as demanded in the petition.

TAKE NOTICE also that demand is made in the petition for judgment against you for the sum of \$  
with interest from

TAKE NOTICE also that WITHIN FIVE DAYS after service of this Notice of Petition upon you, you must  
answer, either orally before the Clerk of this Court at  
County of City and State of New York, or in writing by serving a copy thereof  
upon the undersigned attorney for the \*\*petitioner, and by filing the original of such answer, with proof of service  
thereof, in the Office of the Clerk. Your answer may set forth any defense or counterclaim you may have against  
the petitioner. On receipt of your answer, the Clerk will fix and give notice of the date for trial or hearing which  
will be held not less than 3 nor more than 8 days thereafter, at which you must appear. If, after the trial or hearing,  
judgment is rendered against you, the issuance of a warrant dispossessing you may, in the discretion of the Court,  
be stayed for FIVE days from the date of such judgment.

TAKE NOTICE also that if you fail to interpose and establish any defense that you may have to the allega-  
tions of the petition, you may be precluded from asserting such defense or the claim on which it is based in any  
other proceeding or action.

TAKE NOTICE also that in the event you fail to answer and appear, final judgment by default will be  
entered against you but a warrant dispossessing you will not be issued until the tenth day following the date  
of the service of this Notice of Petition upon you

TAKE NOTICE that under Section 745 of the Real Property Actions and Proceedings Law, you may be  
required by the Court to make a rent deposit, or a rent payment to the petitioner, upon your second request  
for an adjournment or if the proceeding is not settled or a final determination has not been made by the Court  
within 30 days of the first court appearance. Failure to comply with an initial rent deposit or payment order  
may result in the entry of a final judgment against you without a trial. Failure to make subsequent required  
deposits or payments may result in an immediate trial on the issues raised in your answer.

Dated:

.....  
Clerk of the Civil Court of the City of New York



CIVIL COURT OF THE CITY OF NEW YORK  
COUNTY OF \_\_\_\_\_

Petitioner (Landlord), Index No. L&T \_\_\_\_\_  
-against- Notice of Nonpayment  
Respondent (Tenant), Petitioner Business Address:  
Address:  
Respondent (Undertenant).  
Address:

**Your landlord is suing you for nonpayment of rent.**

1. Your landlord has started an eviction nonpayment case against you for rent the landlord claims you owe. The landlord's reasons are given in the attached Petition.
2. Your landlord is asking this Court for:
  - a money judgment for \$\_\_\_\_\_, plus interest from \_\_\_\_\_, 20\_\_\_\_, and
  - permission to evict you from your home if you do not pay the money judgment.
3. You have a right to a trial. But first you must Answer the Petition by going to the landlord-tenant Clerk's Office at: \_\_\_\_\_, New York. You must do this within 5 days after the date these papers were given to you or a person who lives or works in your home, or were posted at your home at:

Address or description of the premises

**Warning!** If you don't Answer the Petition within 5 days, a judgment may be entered against you. If that happens, the landlord will have the right to evict you.

4. Your Answer should say the legal reasons that you don't owe all or part of the rent. The legal reasons are called defenses. You can also say any claims you have against the landlord. You will have to prove your defenses and claims in court. To Answer the Petition you must either:
  - Go to the landlord-tenant Clerk's Office and tell the Clerk your Answer, or
  - Give the landlord-tenant Clerk your Answer in writing (Form No. Civ-LT-91a).Information to help you Answer the Petition is attached (Form No. Civ-LT-92).  
**Important!** If you don't tell the Clerk about a defense in your Answer you might not be able to talk about it later in this case or any other case.

5. When you Answer the Petition, you will get a date to come back to Court 3 to 8 days later.
6. If your name is not on this Notice but you live in the home listed above, you have a right to come to Court and Answer the Petition.
7. Available Resources:
  - **Language Help:** If you don't speak English well you have a right to a free court interpreter. Tell the Court Clerk you need an interpreter, or call 646 386-5670. To read a translation of this Notice in another language visit: [www.nycourts.gov/housingnyc](http://www.nycourts.gov/housingnyc). For information on evictions:

646 386-5750: Informations concernant les expulsions • বেদখলের তথ্য • 迫迁相关信息  
معلومات بشأن حالات الطرد • Информация о выселении • 迫遷相關資訊  
بيانات عن حالات الطرد • Enfòmasyon Konsènan Degèpisman • Información sobre desalojos

- **ADA Help:** If you need special accommodations to use the court because of a disability, tell a Court Clerk or ADA contact person listed at: <http://www.nycourts.gov/COURTS/nyc/housing/services.shtml#ada> or call 646 386-5300 or 711 (TTY).
- **Financial Help:** If you owe the rent and don't have the money, contact HRA's Infoline at (718) 557-1399 for more information about getting help to pay the rent.
- **Legal Help:** The court does not give you a lawyer. If you do not have money to hire a lawyer, contact the Legal Aid Society 212 577-3300 or Legal Services 212 431-7200 or visit LawHelpNY at [www.lawhelpny.org](http://www.lawhelpny.org). If you have money to hire a lawyer, you can contact the New York City Bar Legal Referral Service at 212 626-7373.
- **Help at the Courthouse:** There is a Help Center in the courthouse where you can speak to a Court Attorney or a Volunteer Lawyer.
- **Online Help:** Visit the Housing Court's website at: [www.nycourts.gov/nychousing](http://www.nycourts.gov/nychousing) (also available in Spanish and Chinese) or visit LawHelpNY at [www.lawhelpny.org](http://www.lawhelpny.org).

**Postponements and Rent Deposits.** In court, you can ask to postpone your case. But, if your case is not finished 30 days after the first court date, or you ask to postpone the case twice, the court can order you to deposit money in court or make a rent payment to the landlord. If you don't do this, the landlord may get a judgment against you without a trial. If you fail to make future payments ordered by the court, your case may go to trial right away. RPAPL Sec. 745.

**After Judgment.** If the court orders a judgment against you after a trial, the court may give you up to 5 days to pay the judgment and not be evicted. Once the warrant of eviction is issued, the landlord can still evict you even if you pay the rent. After the warrant is issued, you will get a Notice of Eviction from a Marshal giving you at least 72 hours to move. If you don't move you will be evicted. RPAPL Sec. 749(2).

City of New York, County of \_\_\_\_\_

Dated: \_\_\_\_\_, 20\_\_\_\_

Clerk of the Civil Court of the City of New York: \_\_\_\_\_

Petitioner or Attorney for Petitioner: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No. \_\_\_\_\_

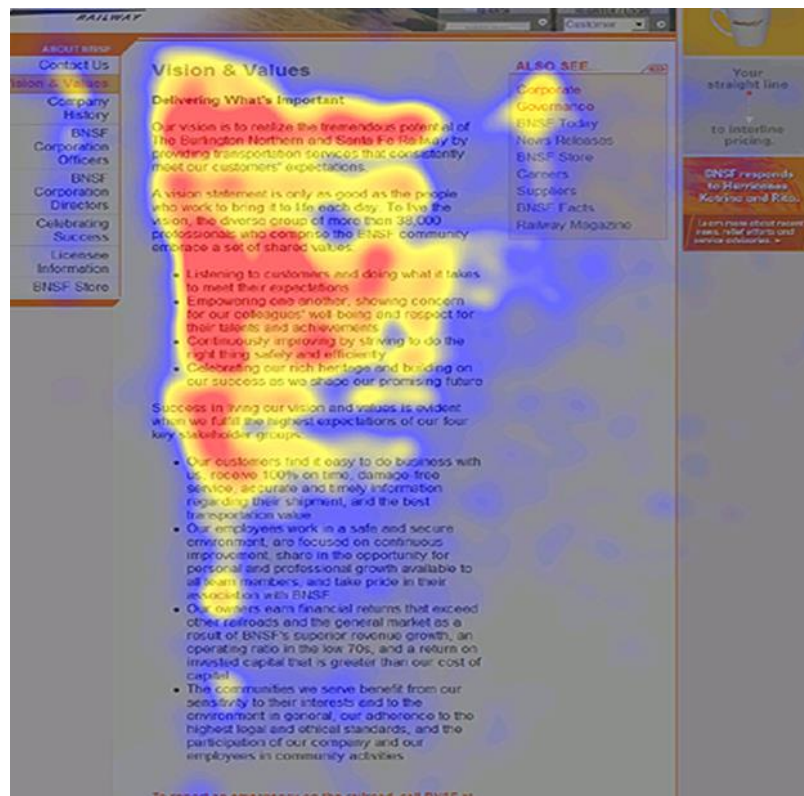
# WEBSITES





# People Don't Read Webpages: They Scan

## “F” Reading Pattern





# Website Reading Facts

- People read at most 18% of what's on the page.
- The more words on the page, the lower the percentage read.
- To get people to read half of your words, limit the page to 110 words or less.
- People may decide in five seconds whether your website is useful.



# Avoiding the “F” Shaped Reading Pattern

People default to the F-pattern when there are no strong cues to attract the eyes towards meaningful information.

Try visually grouping small amounts of related content by surrounding them with a border or using a different background.

Bold important **words** and **phrases** (never underline).

**Only emphasize important information, otherwise you'll dilute the impact!**

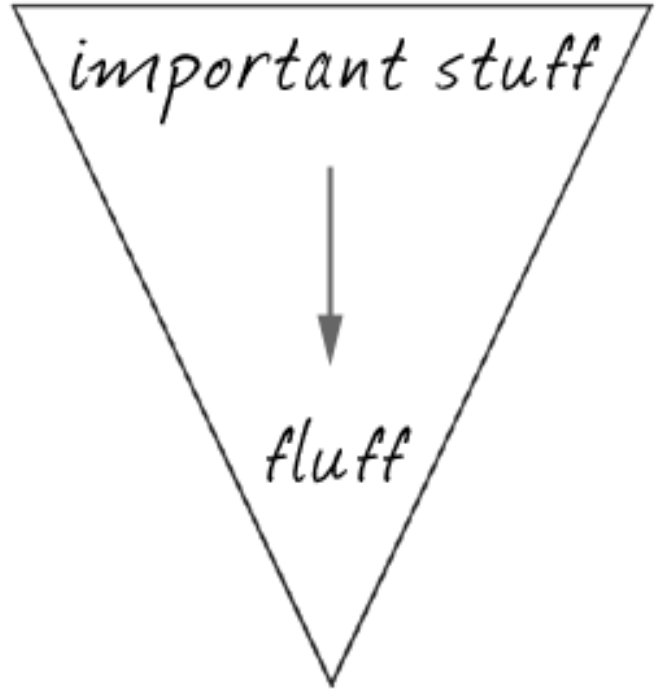
# Headings and Titles

- Chunk your content into separate short logical sections divided by headings and subheadings.
- Make headings look important, i.e., larger, bolder, different color or set off by more white space.
- Use descriptive section headings with common words.
- Try to keep the information on each page to no more than two levels.



# Inverted Pyramid

- Use the inverted pyramid. Begin with the shortest and clearest statement you can make about the topic.
- The most important points at the top in the first two paragraphs.
- Make the first two words of a sentence count (remember the leg of the F reading pattern).



## ~~ALL CAPS~~

AGAIN, PUTTING EVERYTHING IN CAPITAL LETTERS IS NOT A GOOD EMPHASIS TECHNIQUE. ALTHOUGH IT MAY DRAW THE USER'S ATTENTION TO THE SECTION, IT MAKES IT HARDER TO READ.

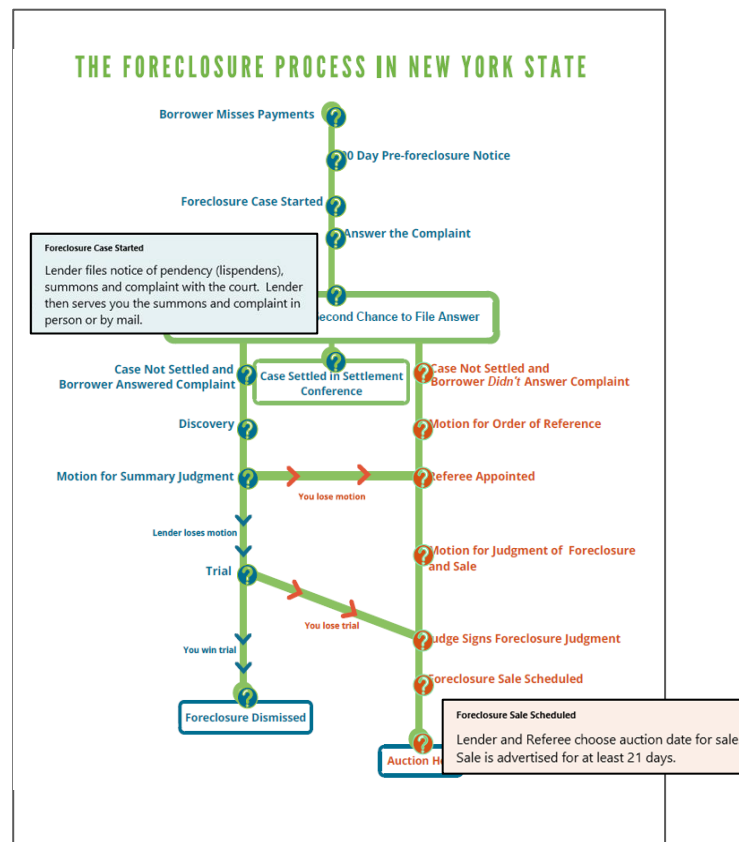
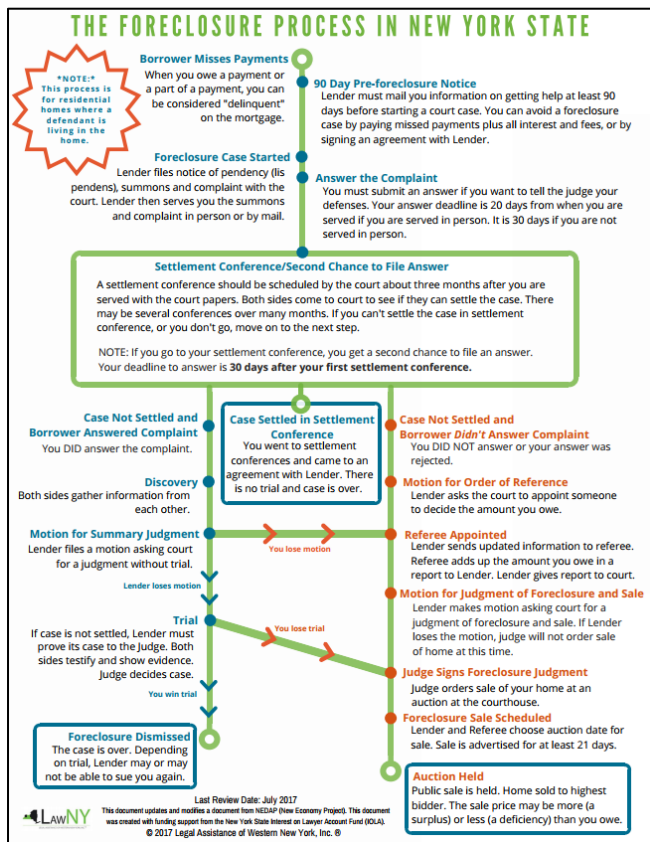
**ONLINE, ALL CAPS IS CONSIDERED SHOUTING.**

# Links and Underlining

- Make links obviously clickable.
- Links are both content and navigation.
- Make the link meaningful and descriptive, avoid “click here” or “more.”
- Use plain language; common words.
- Underline links, avoid underlining text.



## Interactive: Think Outside the Box



# Web Writing: Plain Language 2.0

All of the plain language tips discussed in the beginning of this session apply to web writing. **Plus:**

- Use even more bulleted or numbered lists than on paper.
- Use even more headings with less under each heading.
- Use even more white space so pages are easy to scan.
- Use even shorter paragraphs than on paper.





## Other Things to Keep in Mind

- Don't forget mobile users. How will your plain language page look on a mobile device?
- Let each page stand on its own. Don't assume your readers have knowledge of the subject or have read related pages on your site.
- Use caution with PDFs. Don't make a website filled with links to your PDFs, even if they are written in plain language.
- Don't cut and paste text of print documents to create web content.

# Web Writing is Different from Print Writing

## Remember:

### Website Writing

- Minimal text
- Easy to scan
- Interactive



### Court Form Writing

- Complete sentences
- Linear and narrative driven
- Reader must read to the end

# Tools





# WriteClearly

Free Plain Language Authoring Tool  
[openadvocate.org/writeclearly](https://openadvocate.org/writeclearly)

## About Us

### What is The Legal Services Corporation of Delaware, Inc. (LSCD)?

Print PDF Scan

- LSCD is a non-profit organization that offers legal advice and assistance to people who cannot afford a private attorney.
- LSCD works to give low-income individuals an opportunity to exercise the rights they have been granted by law. We are not a political or religious organization.
- LSCD handles only civil cases. We do not handle any criminal matters.

What is The Legal Services Corporation of Delaware, Inc. (LSCD)?

Who Does LSCD Help?

What Kinds of Problems Will LSCD Help Me With?

How Much Will It Cost?

What Will LSCD Do to Help Me?

Even If You Don't Think You Need a Lawyer, You Can Call Just to Ask a Question\*

Back to top

### Who Does LSCD Help?

- LSCD helps people with low incomes and one of the problems covered by our services.
- The exact amount of income depends on the size of your family, but if you qualify for food stamps, welfare, or other public benefits, chances are that you will be eligible for our services.

### What Kinds of Problems Will LSCD Help Me With?

LSCD Handles Many Different Kinds of Legal Problems.

- Bankruptcy Petitions and Advice
  - Chapters 7 & 13
- Consumer Problems
  - Repossessions
  - Deceptive Trade Acts & Practices
  - Fraud

OpenAdvocate WriteClearly

1 of 10 Go

First

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Last

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5.97

Last 5.97

Flesch-Kincaid Grade Level

**Suggestion Summary:** Shorten long sentences. Replace polysyllable words where possible. Replace complex words with simpler alternatives.

See suggestions

The most valuable of all talents is that of never using two words when one will do. -- Thomas Jefferson



Kansas Legal Services

A Non-Profit Law Firm and Community Education Organization

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[Apply Online](#)
[Free Legal Forms](#)
[Find Info](#)
[Events](#)
[News](#)
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## Services for Seniors

- #1 KLS cooperates with the Kansas Department on Aging and Disability Services and the Area Agencies
- #2 on Aging as an integral part of the state aging network. Older Americans Act funds are combined with LSC, IOLTA and other private funds to address this growing area of need.
- #3 The **Senior Citizen Law Project (SCLP)** provides services in a wide range of civil legal issues to
- #4 persons age 60 and older. Its objective is to target the more vulnerable elderly population who are in
- #5 the greatest social and economic need. Priorities include assuring that seniors obtain the cash and medical assistance essential to their well being and stopping financial, physical or psychological abuse of elders.
- #6 SCLP also has an extensive community education program through which elders and workers serving the elderly are educated about elders' rights and protections under the law.
- #7 **Elder Justice Initiative** If you or someone you know is a victim of elder abuse, help is available.
- #8 [Click here](#) to learn more about elder abuse and exploitation at the **Department of Justice Elder Justice Initiative** website. [Click here](#) to find out about resources in Kansas.
- #9  **Elder Law Hotline** is a project of KLS. Hotline attorneys answer



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7.92 ▼

Last 11.58

Flesch-Kincaid Grade Level

#4 Its objective Synonym - aim, goal? is to target the more vulnerable Polysyllable - Find replacement? elderly population Polysyllable - Find replacement? who are in the greatest social and economic Polysyllable - Find replacement? need.

Shorten the sentence. Replace polysyllable words where possible. Replace complex words with simpler alternatives.





# ReadClearly

Free Plain Language Legal Glossary

[openadvocate.org/readclearly](http://openadvocate.org/readclearly)

juvenile court that handled the delinquency or child in need of services case.

When deciding whether to grant the petition, the juvenile court may review:

- The best interests of the child.
- The age of the person during the person's contact with the juvenile court or law enforcement agency.
- The nature of any allegations.
- Whether there was an informal adjustment or an adjudication.
- The disposition of the case.
- The manner in which the person participated in a case or action.
- The time during which the person has been with the juvenile court or with any law enforcement agency.
- Whether the person acquired a criminal record.
- The person's current status.

If expungement is granted, the records may be destroyed or given to the person who requested expungement.

The judge's decision in a case or action.

Was this hint helpful?

Yes

No





github.com/openadvocate/readclearly

openadvocate / readclearly

Watch 5

Star 1

Fork 3

Code

Issues 0

Pull requests 0

Projects 0

Insights

Free plain language legal glossaries

47 commits

2 branches

0 releases

4 contributors

GPL-3.0

Branch: master

New pull request

Find file

Clone or download

glekli Merge pull request #7 from kbrinner/master

Latest commit 1f8174b on Aug 7

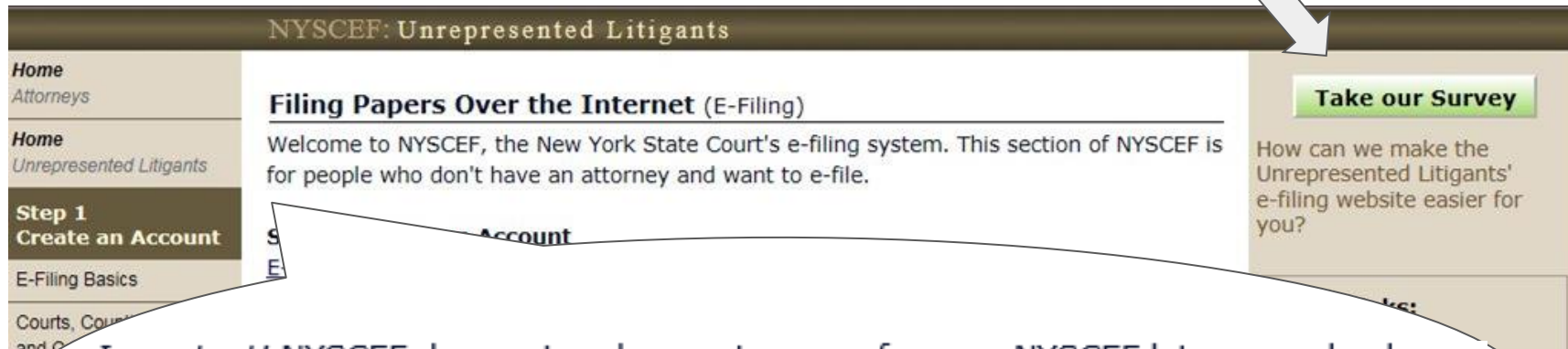
default	Added glossaries	8 months ago
english-basic-with-spanish	Added glossaries	8 months ago
english-basic	Added glossaries	8 months ago
english-expanded	Added glossaries	8 months ago
spanish-common-expanded	Changed to UTF-8	7 months ago
spanish-common	Added glossaries	8 months ago
texas-english	Initial commit of texas-english and texas-spanish glossaries provided...	4 months ago
texas-espanol	Testing	4 months ago
texas-spanish	Remove duplicate word	4 months ago
.gitignore	Added gitignore	8 months ago
HOWTO.md	Updated custom glossary instructions.	4 months ago
LICENSE	Initial commit	8 months ago
README.md	Added website URL	8 months ago

# TESTING



# Surveys

AFTER



**NYSCEF: Unrepresented Litigants**

**Home**  
Attorneys

**Home**  
Unrepresented Litigants

**Step 1**  
**Create an Account**

E-Filing Basics

Courts, County and Districts

**Filing Papers Over the Internet (E-Filing)**

Welcome to NYSCEF, the New York State Court's e-filing system. This section of NYSCEF is for people who don't have an attorney and want to e-file.

**Take our Survey**

How can we make the Unrepresented Litigants' e-filing website easier for you?

**Important!** NYSCEF does not make court papers for you. NYSCEF lets you upload your finished papers to the court. If you have not made your court papers and need information or forms, visit the [CourtHelp](#) website.

# Testing Subjects

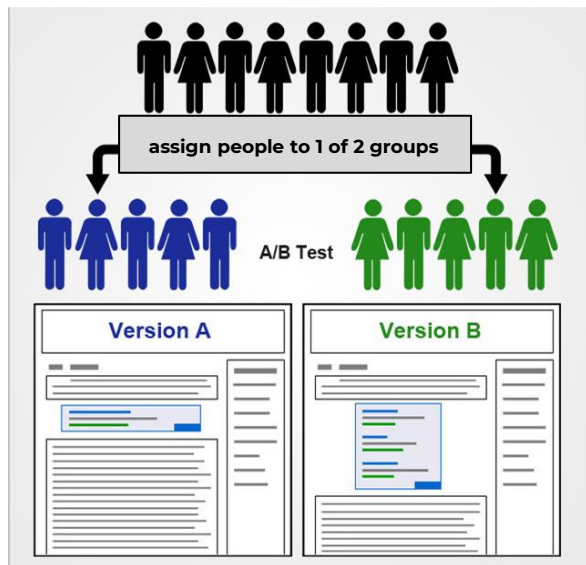
- Focus groups
- Help Center or law library visitors
- Test on co-workers, friends and family
- My mom



Rochelle's Mom

# Other Ways to Test

- A/B testing and other randomized studies
- Process evaluation
- Economic evaluation



When in doubt:  
partner with a researcher!

# Thank You! Let's Take Questions



# Join SRLN

Every person gets:

- the **legal help** they need,
- **when** they need it,
- in a **format** they **can use**.



Join today at [www.srln.org](http://www.srln.org)

# Join NACM

## NACM Members Have Access To:

- *Court Express* quarterly e-newsletters which contain information about NACM events, members, and news from around the court community
- *Court Manager* quarterly journals which include numerous articles of interest to court managers
- Opportunities for one-on-one mentorships from experienced court professionals
- A community of court professionals from around the world to discuss emerging issues within the courts
- Opportunities to serve on NACM committees with other colleagues in the field and the NACM Board
- Discounted registration rates for NACM Conferences
- Conference Scholarships

Join Today!





# Serve on the Plain Language Guide Committee

NACM is Producing a Plain Language Guide in 2018. If you are interested in serving on the Plain Language Guide Committee, please contact:

Aurora Zamora at [aurora.zamora@txcourts.gov](mailto:aurora.zamora@txcourts.gov), or

Alyce Roberts at [Alyce@NACMnet.org](mailto:Alyce@NACMnet.org).

# Upcoming Events

February 11-13: [NACM Midyear Conference](#), Orange County, CA

February 21-23: [SRLN Conference](#), San Francisco, CA

July 22-26: NACM Annual Conference, Atlanta, GA

Visit [NACMnet.org](#) for announcements of future webinars!

# Resources

- <http://www.plainlanguage.gov>
- <http://centerforplainlanguage.org/>
- <http://www.writeclearly.org>
- <https://www.nngroup.com/articles/how-users-read-on-the-web/>
- [https://transcend.net/library/legalCourts/PL\\_ProPerLitigants.pdf](https://transcend.net/library/legalCourts/PL_ProPerLitigants.pdf)
- <https://www.nngroup.com/articles/f-shaped-pattern-reading-web-content/>
- <https://www.plainlanguage.gov/resources/checklists/web-checklist/>
- <https://transcend.net/library/tools/PLchecklist.pdf>

# Resources

Federal government plain language guides	<a href="http://www.plainlanguage.gov">http://www.plainlanguage.gov</a>
Center for Plain Language	<a href="http://centerforplainlanguage.org/">http://centerforplainlanguage.org/</a>
Transcend - plain language tips for courts & law	<a href="https://transcend.net/library/tools/PLchecklist.pdf">https://transcend.net/library/tools/PLchecklist.pdf</a> <a href="https://transcend.net/library/legalCourts/PL_ProPerLitigants.pdf">https://transcend.net/library/legalCourts/PL_ProPerLitigants.pdf</a>
Plain language website checklist & background reading	<a href="https://www.nngroup.com/articles/f-shaped-pattern-reading-web-content/">https://www.nngroup.com/articles/f-shaped-pattern-reading-web-content/</a> <a href="https://www.nngroup.com/articles/how-users-read-on-the-web/">https://www.nngroup.com/articles/how-users-read-on-the-web/</a> <a href="https://www.plainlanguage.gov/resources/checklists/web-checklist/">https://www.plainlanguage.gov/resources/checklists/web-checklist/</a>

# Tools

Google Forms	Free unlimited surveys/responses. <a href="https://www.google.com/forms/about/">https://www.google.com/forms/about/</a>
Inspectlet	Records videos of visitors using your site. See mouse movement, scrolling, clicks, and keypresses. Free for 100 recorded sessions per month. <a href="https://www.inspectlet.com/">https://www.inspectlet.com/</a>
Optimizely	A/B testing, has a free trial. <a href="https://www.optimizely.com/">https://www.optimizely.com/</a>
Validately	Provides test online test subjects, click tests, screen recordings. Free trial for 5 unmoderated and 5 moderated responses. <a href="https://validately.com/">https://validately.com/</a>
WriteClearly	Free plain language authoring tool that tests webpage reading level. <a href="http://openadvocate.org/writeclearly/">http://openadvocate.org/writeclearly/</a>
ReadClearly	Free plain language glossary website plug-in that displays definitions. <a href="http://openadvocate.org/readclearly/">http://openadvocate.org/readclearly/</a>

# Research Partners

## Law School Research, Innovation, and Design Labs

Access to Justice Lab	Harvard	<a href="http://a2jlab.org">a2jlab.org</a>
Legal Design Lab	Stanford	<a href="http://legaltechdesign.com">legaltechdesign.com</a>
NuLawLab	Northeastern	<a href="http://nulawlab.org">nulawlab.org</a>
IAALS	Denver	<a href="http://iaals.du.edu">iaals.du.edu</a>
RnD Law	Michigan State	<a href="http://legalrnd.org">legalrnd.org</a>
Center for Access to Justice	Georgia State	<a href="http://law.gsu.edu/center-access-justice">http://law.gsu.edu/center-access-justice</a>

# Tab 5

**UTAH MEDICAL CANDOR ACT**

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merrill F. Nelson**

Senate Sponsor: Michael S. Kennedy

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**LONG TITLE**

**General Description:**

This bill enacts the Utah Medical Candor Act.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates a medical candor process where a health care provider may investigate an injury, or suspected injury, associated with a health care process and may communicate information about the investigation to the patient and any representative of the patient;
- ▶ addresses written notice of a medical candor process;
- ▶ addresses an offer of compensation made as part of a medical candor process;
- ▶ addresses confidentiality, disclosure, and effect of communications, materials, or information that is created for or during a medical candor process;
- ▶ addresses the confidentiality of information from a patient's medical record that is used or disclosed in a medical candor process;
- ▶ addresses the confidentiality of any communication, material, or information provided to a patient or a representative of a patient before participation in a medical candor process;
- ▶ addresses the recording of communications during a medical candor process;
- ▶ addresses reporting requirements in relation to a medical candor process; and
- ▶ allows for the disclosure of deidentified information or data of an adverse event for certain purposes.



**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides revisor instructions.

**Utah Code Sections Affected:**

ENACTS:

[78B-3-450](#), Utah Code Annotated 1953[78B-3-451](#), Utah Code Annotated 1953[78B-3-452](#), Utah Code Annotated 1953[78B-3-453](#), Utah Code Annotated 1953[78B-3-454](#), Utah Code Annotated 1953

---

*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **78B-3-450** is enacted to read:**Part 4a. Utah Medical Candor Act****78B-3-450. Definitions.**As used in this part:

(1) "Adverse event" means an injury or suspected injury that is associated with a health care process rather than an underlying condition of a patient or a disease.

(2) "Affected party" means:

(a) a patient; and

(b) any representative of a patient.

(3) "Communication" means any written or oral communication created for or during a medical candor process.

(4) "Governmental entity" means the same as that term is defined in Section [63G-7-102](#).

(5) "Health care" means the same as that term is defined in Section [78B-3-403](#).

(6) "Health care provider" means the same as that term is defined in Section

78B-3-403.

(7) "Malpractice action against a health provider" means the same as that term is defined in Section 78B-3-403.

(8) "Medical candor process" means the process described in Section 78B-3-451.

(9) "Patient" means the same as that term is defined in Section 78B-3-403.

(10) "Public employee" means the same as the term "employee" as defined in Section 63G-7-102.

(11) (a) Except as provided in Subsection (11)(c), "representative" means the same as that term is defined in Section 78B-3-403.

(b) "Representative" includes:

(i) a parent of a child regardless of whether the parent is the custodial or noncustodial parent;

(ii) a legal guardian of a child;

(iii) a person designated to make decisions on behalf of a patient under a power of attorney, an advanced health care directive, or a similar legal document;

(iv) a default surrogate as defined in Section 75-2a-108; and

(v) if the patient is deceased, the personal representative of the patient's estate or the patient's heirs as defined in Sections 75-1-201 and 78B-3-105.

(c) "Representative" does not include a parent of a child if the parent's parental rights have been terminated by a court.

(12) "State" means the same as that term is defined in Section 63G-7-102.

Section 2. Section **78B-3-451** is enacted to read:

**78B-3-451. Medical candor process.**

In accordance with this part, a health care provider may engage an affected party in a process where the health care provider and any other health care provider notified in Subsection 78B-3-452(1)(b) that chooses to participate in the process that:

(1) conducts an investigation into an adverse event involving a patient and the health care provided to the patient;

(2) communicates information to the affected party regarding information gathered during an investigation described in Subsection (1);

(3) communicates to the affected party the steps that the health care provider will take to prevent future occurrences of the adverse event; and

(4) determines whether to make an offer of compensation to the affected party for the adverse event.

Section 3. Section **78B-3-452** is enacted to read:

**78B-3-452. Notice of medical candor process.**

(1) If a health care provider wishes to engage an affected party in a medical candor process, the health care provider shall:

(a) provide a written notice described in Subsection (2) to the affected party within 365 days after the day on which the health care provider knew of the adverse event involving a patient;

(b) provide a written notice, in a timely manner, to any other health care provider involved in the adverse event that invites the health care provider to participate in a medical candor process; and

(c) inform, in a timely manner, any health care provider described in Subsection (1)(b) of an affected party's decision of whether to participate in a medical candor process.

(2) A written notice under Subsection (1)(a) shall:

(a) include an explanation of:

(i) the patient's right to receive a copy of the patient's medical records related to the adverse event; and

(ii) the patient's right to authorize the release of the patient's medical records related to the adverse event to any third party;

(b) include a statement regarding the affected party's right to seek legal counsel at the affected party's expense and to have legal counsel present throughout a medical candor process;

(c) notify the affected party that there are time limitations for a malpractice action against a health care provider and that a medical candor process does not alter or extend the

time limitations for a malpractice action against a health care provider;

(d) if the health care provider is a public employee or a governmental entity, notify the affected party that participation in a medical candor process does not alter or extend the deadline for filing the notice of claim required under Section [63G-7-401](#);

(e) notify the affected party that if the affected party chooses to participate in a medical candor process with a health care provider:

(i) any communication, material, or information created for or during the medical candor process, including a communication to participate in the medical candor process, is confidential, not discoverable, and inadmissible as evidence in a judicial, administrative, or arbitration proceeding arising out of the adverse event; and

(ii) a party to the medical candor process may not record any communication without the mutual consent of all parties to the medical candor process; and

(f) advise the affected party that the affected party, the health care provider, and any other person that participates in a medical candor process must agree, in writing, to the terms and conditions of the medical candor process in order to participate.

(3) If, after receiving a written notice, an affected party wishes to participate in a medical candor process, the affected party must agree, in writing, to the terms and conditions provided in the written notice described in Subsection (2).

(4) If an affected party agrees to participate in a medical candor process, the affected party and the health care provider may include another person in the medical candor process if:

(a) the person receives written notice in accordance with this section; and

(b) the person agrees, in writing, to the terms and conditions provided in the written notice described in Subsection (2).

Section 4. Section **78B-3-453** is enacted to read:

**78B-3-453. Nonparticipating health care providers -- Offer of compensation -- Payment.**

(1) If any communications, materials, or information in any form during a medical candor process involve a health care provider that was notified under Subsection

78B-3-451 (1)(b) but the health care provider is not participating in the medical candor process,  
a participating health care provider:

(a) may provide only materials or information from the medical record to the affected  
party regarding any health care provided by the nonparticipating health care provider;

(b) may not characterize, describe, or evaluate health care provided or not provided by  
the nonparticipating health care provider;

(c) may not attribute fault, blame, or responsibility for the adverse event to the  
nonparticipating health care provider; and

(d) shall inform the affected party of the limitations and requirements described in  
Subsections (1)(a), (b), and (c) on any communications, materials, or information made or  
provided by the participating health care provider in regard to a nonparticipating health care  
provider.

(2) (a) If a health care provider determines that no offer of compensation is warranted  
during a medical candor process, the health care provider may orally communicate that  
decision to the affected party.

(b) If a health care provider determines that an offer of compensation is warranted  
during a medical candor process, the health care provider shall provide the affected party with a  
written offer of compensation.

(3) If a health care provider makes an offer of compensation to an affected party during  
a medical candor process and the affected party is not represented by legal counsel, the health  
care provider shall:

(a) advise the affected party of the affected party's right to seek legal counsel, at the  
affected party's expense, regarding the offer of compensation; and

(b) notify the affected party that the affected party may be legally required to repay  
medical and other expenses that were paid by a third party, including private health insurance,  
Medicare, or Medicaid.

(4) (a) All parties to an offer of compensation shall negotiate the form of the relevant  
documents.

170 (b) As a condition of an offer of compensation under this section, a health care  
171 provider may require an affected party to:

172 (i) execute any document that is necessary to carry out an agreement between the  
173 parties regarding the offer of compensation; and

174 (ii) if court approval is required for compensation to a minor, obtain court approval for  
175 the offer of compensation.

176 (5) If an affected party did not present a written claim or demand for payment before  
177 the affected party accepts and receives an offer of compensation as part of a medical candor  
178 process, the payment of compensation to the affected party is not a payment resulting from:

179 (a) a written claim or demand for payment; or

180 (b) a professional liability claim or a settlement for purposes of Sections [58-67-302](#),  
181 [58-67-302.7](#), [58-68-302](#), and [58-71-302](#).

182 Section 5. Section **78B-3-454** is enacted to read:

183 **78B-3-454. Confidentiality and effect of medical candor process -- Recording of**  
184 **medical candor process -- Exception for deidentified information or data.**

185 (1) Except as provided in Subsections (2), (3), and (4), all communications, materials,  
186 and information in any form specifically created for or during a medical candor process,  
187 including the findings or conclusions of the investigation and any offer of compensation, are  
188 confidential and privileged in any administrative, judicial, or arbitration proceeding.

189 (2) Any communication, material, or information in any form that is made or provided  
190 in the ordinary course of business, including a medical record or a business record, that is  
191 otherwise discoverable or admissible and is not specifically created for or during a medical  
192 candor process is not privileged by the use or disclosure of the communication, material, or  
193 information during a medical candor process.

194 (3) (a) Any information that is required to be documented in a patient's medical record  
195 under state or federal law is not privileged by the use or disclosure of the information during a  
196 medical candor process.

197 (b) Information described in Subsection (3)(a) does not include an individual's mental

impressions, conclusions, or opinions that are formed outside the course and scope of the patient's care and treatment and are used or disclosed in a medical candor process.

(4) (a) Any communication, material, or information in any form that is provided to an affected party before the affected party's written agreement to participate in a medical candor process is not privileged by the use or disclosure of the communication, material, or information during a medical candor process.

(b) Any communication, material, or information described in Subsection (4)(a) does not include a written notice described in Section [78B-3-452](#).

(5) A communication or offer of compensation made in preparation for or during a medical candor process does not constitute an admission of liability.

(6) Nothing in this part alters or limits the confidential, privileged, or protected nature of communications, information, memoranda, work product, documents, and other materials under other provisions of law.

(7) (a) Notwithstanding Section [77-23a-4](#), a party to a medical candor process may not record any communication without the mutual consent of all parties to the medical candor process.

(b) A recording made without mutual consent of all parties to the medical candor process may not be used for any purpose.

(8) (a) Notwithstanding any other provision of law, any communication, material, or information created for or during a medical candor process:

(i) is not subject to reporting requirements by a health care provider; and

(ii) does not create a reporting requirement for a health care provider.

(b) If there are reporting requirements independent of, and supported by, information or evidence other than any communication, material, or information created for or during a medical candor process, the reporting shall proceed as if there were no communication, material, or information created for or during the medical candor process.

(c) This Subsection (8) does not release an individual or a health care provider from complying with a reporting requirement.

(9) (a) A health care provider that participates in a medical candor process may provide deidentified information or data about the adverse incident to an agency, company, or organization for the purpose of research, education, patient safety, quality of care, or performance improvement.

(b) Disclosure of deidentified information or data under Subsection (9)(a):

(i) does not constitute a waiver of a privilege or protection of any communication, material, or information created for or during a medical candor process as provided in this section or any other provision of law; and

(ii) is not a violation of the confidentiality requirements of this section.

Section 6. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.J.R. 13, Joint Resolution Amending Court Rules of Procedure and Evidence to Address the Medical Candor Process, does not pass.