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The Art of Legal Writing

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Introduction

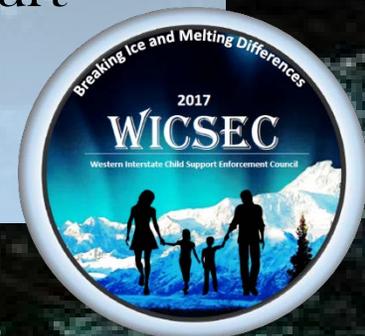
“Lawyers spend a great deal of their time shoveling smoke.”

Hon. Oliver Wendell Holmes,
U.S. Supreme Court



“Too many lawyers believe that it is essential to legal English that one write as pompously as possible, using words and phrases that have long since disappeared from normal English discourse.”

Hon. Antonin Scalia,
U.S. Supreme Court



Importance

“Take writing seriously as a craft in its own right.”

Hon. Raymond M. Kethledge, U.S. Court of Appeals,
Sixth Circuit

“Is good writing rewarded? I used to think it doesn’t matter much, in comparison with legal authority, justice, and the like. Now I know better: Good writing is rewarded so automatically that you don’t even think about it.”

Hon. Murry Cohen, Fourteenth Court of Appeals,
Houston



Importance

Good writing will help you

- Win cases
- Explain your point or idea to your boss and colleagues
- Convey the child support message to families



O'Connor v. Oakhurst Dairy, 851 F.3d 69 (1st Cir. 2017)



Workshop Goals

- Remember some essential rules of writing
- Use these rules to edit sentences and paragraphs
- Improve your legal writing!



Rule 1

Write to your audience

- Court or administrative law judge
- Employees and child support professionals
- Parents—our child support customers
 - Forms
 - Website or publications

Argument or information?



Rule 2.a

Frame your argument

- Identify issues
- Lay out the plain, relevant facts
- Present the pertinent law
- Apply critical facts to the law
- Weigh conflicting evidence
- Resolve conflicts in your favor



Rule 2.b

Plan your message

- Identify “takeaways”
- Divide takeaways into supporting ideas
- Use paragraphs as building blocks
- Group related paragraphs under subheadings
- Determine appropriate voice and person



Rule 3

Use focused paragraphs

- Choose the paragraph's main idea
- State the main idea
- Support the idea with evidence
- Organize supporting sentences
- Divide complex ideas into smaller parts
 - Give each part its own paragraph



Rule 4

Use engaging sentences

- Vary the length—err on the shorter side
- Arrange sentence structure carefully
 - Anchor modifiers to what they modify
 - Avoid wide gaps between subject, verb, and object
- Use compound constructions only for equally important and closely related ideas
- Punctuate with precision—commas count



Rule 5

Use the active—not passive—voice...

| | |
|---|---|
|  ACTIVE |  PASSIVE |
| Subject is <i>doing</i> the acting. | Subject is <i>being acted upon</i> , <i>receiving</i> the action. |

...and strong, descriptive verbs



Rule 6

Choose your words carefully

- Concrete—not vague
- Familiar—not fancy
- Direct—not euphemisms

Use words your audience will understand



Rule 7

Omit empty and surplus words

- Focus on the actor, the action, and the object
- Strike most intensifiers
- Consider working words versus glue words
- Avoid idioms
- Eschew jargon and redundant legal phrases



Questions?

Thank you for your time

