



Skill in the spotlight : **Legal Writing Basics**

Author : Jessica Dorsey, J.D., LL.M.

Date : 18 January 2022

"I have made this letter longer than usual, because I lack the time to make it short."

This guide outlines general touchstones of legal writing to law students who are writing for various assignments. This guide does not give in-depth, tailor-made advice for specific assignments (e.g., essays, memoranda, thesis writing, or legal drafting), but does sketch the overall principles that are inherent to each type of legal writing: writing that is clear, concise and engaging. Learning to write this way takes much practice and refining. Use this guide to help you through this process throughout your study program.

To use this guide effectively, walk through each section as you embark on your assignment and ask yourself often: am I being **clear**, is my writing **concise**, and am I **engaging** my audience, based on their needs?

The Needs and Interests of Your Audience

Put yourself in your reader's shoes to determine how to write well in each situation.

- a. Reader asks: does this advance my needs and interests? This is true for practitioners, policy makers, judges, clients and professors alike. Identify these first.
- b. Good writing satisfies the needs and interests of the intended audience.
- c. In legal writing, audience determines their own needs entirely (judges need memos that explain legal issues to make decisions, academics adjudge whether the article is relevant for their own research, and professors see if you grasped the legal concepts to determine if you fulfill the grading criteria, e.g.).
- d. Reader's purpose, therefore, is to extract information to facilitate the reader's decision-making, based on their needs and interests, whether that is a judge making a legal decision, a policy maker drafting legal policy or a teacher assessing your grade.

A well written legal document helps reader's decision-making.

Clear, Concise and Engaging: Three Fundamental Qualities That Enabling Legal Writing

1. **Clear:** "Purpose of communication is to communicate, and this can't be done if the reader doesn't understand the words used." ([Brian Garner](#), 2002 at 183.) Important to realize: being clear does not mean "dumbing down" the language you use. Keep your audience in mind at all times.
 - a. Use proper (conventional) grammar and punctuation—the more deviation from core rules of grammar, syntax, and semantics, the more difficult it will be to understand your message.
 - b. Use ordinary words and simple sentence structure.
 - c. Start sentences with short elements: introductory phrase or clause, followed by short subject and a verb expressing specific action. (See first paragraph of Cardozo [in *Palsgraf v. Long Island Railroad Co*](#) 248 N.Y. 339, 162 N.E. 99 [N.Y. 1928]).

¹ Blaise Pascal, *Lettres Provinciales*, no. 16 (1656-57). Also attributed in slightly different wording to Mark Twain and others.

- d. Aim for plain language without sacrificing the precision required for your audience. Do not require your reader to get a dictionary, but keep your reader's background in mind. Your professor won't reach for a dictionary when you use jargon related to your subject matter. Your non-legally-trained neighbor might have to.
- e. Ask early and often: Given the document's reader, writer, purpose, and surrounding circumstances, does the legalese increase or decrease communication between writer and reader?
- f. Drop unnecessary words and phrases that can impede reader's comprehension (a.k.a. "clutter").
- g. Employ sensible uses of repetition of terminology (rather than synonyms).
- h. Avoid meta-discourse (e.g., "it should be noted" or "it is important to point out that...").
- i. Use active rather than passive voice.
- j. Think about typography and visual presentation of your end product. Legal readers usually don't take Comic Sans or Braggadoccio very seriously.
- k. **Last but certainly not least:** Good organization is key to clarity! Introduction, body, conclusion and internal structure ([IRAC](#), e.g). See other 2-page guides for more specifics, based on your assignment type.

2. **Concise:** take this to mean efficient rather than brief. Concise writing conveys the writer's points succinctly, without unnecessary words and with detail that is appropriate. This connects to clarity: writing that is concise is clearer than that which is not. Concise writing can also aid in making the writing more engaging (see section 3). This is essential in legal writing as it helps reader make an effective use of her or his limited time.

- a. Eliminate unnecessary words from sentences and unnecessary sentences from paragraphs.
- b. Make a judgement call based on your purpose: does the sentence/paragraph help the reader make decisions? If not, leave it out.

3. **Engaging:** Readers will not continue to read a document, even if clear and concise, if it does not speak to their interests. Compel the reader to keep reading. Encourage reader to engage by agreeing/disagreeing/reconstituting to their own ideas—stimulate reader's thinking. Doing this make's reader's job easier to make decisions.

- a. **Variety:** varied sentence structures, e.g., length and pattern of sentences, smooth transitions, natural flow = helps to keep reader's interest.
- b. **Voice:** be authentic, develop your own style that comes naturally so your personality comes through in the text. Show there is a real person behind the document! But balance this with professional tone and understand your audience.
- c. Tell a compelling **story:** convey information through a narrative and remember legal facts are most often stories about real people. Stories your reader can relate to can also be more persuasive.
- e. Employ **pathos** as a tool of persuasion, if you aim to persuade; connect with the reader at an emotional level when relaying facts but be judicious so reader does not feel manipulated. In academic work, remember to keep your academic argument at the center and not, for example, narrative stories about your topic.
 - i. Use emotive words that resonate with reader's feelings/values.
 - ii. Tap into narrative archetypes (e.g., hero on an epic journey or quest).
- f. Strike the right **tone:** make sure document's content and style match²

With comments or question, please reach out to the author: j.l.dorsey@uu.nl

NB: When using or critiquing the arguments of others, always make sure to cite properly and take careful note of the university's [rules](#) on plagiarism and fraud.

² This guide takes much of its inspiration from Osbeck, Mark, *What is "Good Legal Writing" and Why Does it Matter?* Drexel L. Rev. 4, no. 2 (2012): 417-66.