

Plain Language for Compliance and Legal Requirements

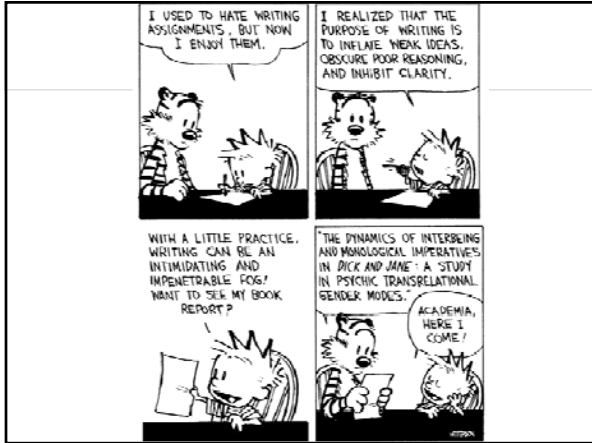


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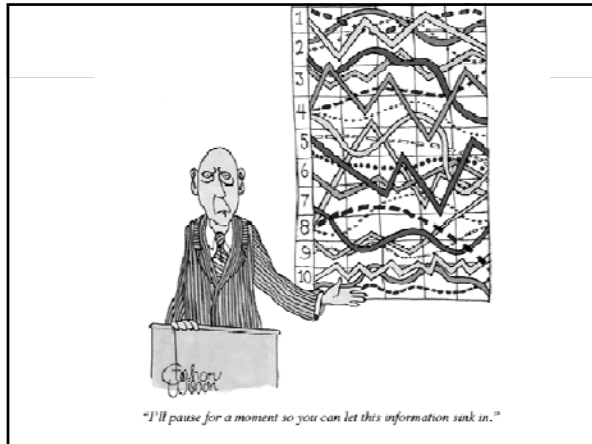
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Here's the Agenda

1. What are the problems?
2. What is plain language?
3. How do we know it works?
4. What laws | regs require plain language?
5. What are plain language strategies?
6. How can your university benefit by using plain language?





1. What are the problems?

- false value of complexity
- faculty and staff time
- administrative communication
- benefit explanations
- financial aid applications and information
- university code of ethics
- information for the public
- public trust of institutions of any kind
- lost time and money
- how readers read

A signpost with several arrows pointing in different directions. The words on the arrows are: CONFUSE, LOST, UNCLEAR, MISSED, DISORIENTED, and BEWILDERED.

Would we expect you to understand this?

- The medication could make you obtunded. You might become ataxic and degenerate into emesis.
- The medication could make you pass out. You might become dizzy and vomit.

A photograph of a glass vial with a white stopper, lying on its side. Several small, round pills are scattered on the surface around the vial.

How do readers read?

- decide in **8 seconds** (or less)
- read 28% slower online
- use documents as reference
- read “just in time”
- interpret and create meaning
- explain to others
- phone for clarification



Medicare: BEFORE



• Investigators of the contractor will review the facts in your case and decide the most appropriate course of action. The first step taken with most Medicare health care providers is to reeducate them about Medicare regulations and policies. If the practice continues, the contractor may conduct special audits of the providers medical records. Often, the contractor recovers overpayments to health care providers this way. If there is sufficient evidence to show that the provider is consistently violating Medicare policies, the contractor will document the violations and ask the Office of the Inspector General to prosecute the case. This can lead to expulsion from the Medicare program, civil monetary penalties, and imprisonment.

Medicare: AFTER

We will take two steps to look into at this matter:

1. We will find out if this situation was an error or fraud.
2. We will let you know the results in approximately six weeks.



What do readers want to know?

- Why am I receiving this?
- Is it important?
- How much time will this take?
- Do I have to take action?
- What am I supposed to do?



1. What are the problems?

- Disclosure ≠ communication
- Facts and accuracy ≠ understanding
- Information ≠ communication



1. What are the problems?

- Investors
 - 84% distrust companies¹
- Corporations
 - decreases accurate earnings forecasts²
 - decreases corporate reputations³
- College students
 - readers' estimation of author's intelligence declined⁴



¹ Siegel & Gale: *A Clonion Call for Transparency*, January 2009.
² Reuven Lehavy, Feng Li, and Kenneth Merkley (2011) *The Effect of Annual Report Readability on Analysts Following and the Properties of Their Earnings Forecasts*. *The Accounting Review*, May 2011, Vol. 86, No. 3, pp. 1087-1115.
³ Gebhart, J. and Lawrence, J. *Predicting Firm Reputation Through Content Analysis of Shareholders' Letters*. *Corporate Reputation Review*, Vol. 11, No. 4, 284-30.
⁴ Oppenheimer, D. M. *Consequences of Erudite Vernacular Utilized Irrespective of Necessity: Problems with Using Long Words Needlessly*. *Applied Cognitive Psychology*, March 2006.

1. What are the problems?

Most administrative documents

- have sentences that are too long (40+)
- have dense, uninviting paragraphs
- lack specific details about steps | processes
- are wordy and use too much jargon
- sound like legalese or computer-speak or artificial
- lack sufficient headings and lists
- are illogically organized
- lack design that aids readability | skim-ability
- need tables, graphs, visuals
- include incomplete information (usually "how?")
- contain inconsistent information



Provision in fee agreement: BEFORE

The client understands that any estimates provided by the Firm of the magnitude of the expenses that will be required at certain stages of any litigation asserting a cause of action are not precise, and that the kinds and amounts of expenses required are ultimately a function of many conditions over which the Firm has little or no control, particularly the extent to which the opposition files pretrial motions and engages in its own discovery requests, whether in the nature of interrogatories, depositions, requests for production, or requests for admission, or any other type of discovery allowed by the rules of procedures in the forum in which the dispute is pending. **110 words; 1 sentence; 48th grade**



Provision in fee agreement: AFTER

A firm's estimate are just that: estimates. Conditions outside the firm's control, especially the other side's pretrial motions and discovery requests, may raise or lower expenses. **26 words; 2 sentences; 12th grade**



“There is no right way to do a wrong thing.”
BEFORE

7. Ethical Conduct of Research
All members of the University community engaged in research are expected to conduct their research with integrity and intellectual honesty at all times and with appropriate regard for human and animal subjects. To protect the rights of human subjects, all research involving human subjects is to be reviewed by institutional review boards. Similarly, to protect the welfare of animal subjects, all research involving animal subjects is to be reviewed by institutional animal care and use committees. The University prohibits research misconduct. Members of the University community engaged in research are not to fabricate data or results; change or knowingly omit data or results to misrepresent results in the research record; or intentionally misappropriate the ideas, writings, research, or findings of others. All those engaged in research are expected to pursue the advancement of knowledge while meeting the highest standards of honesty, accuracy, and objectivity. They are also expected to demonstrate accountability for sponsors' funds and to comply with specific terms and conditions of contracts and grants.

“There is no right way to do a wrong thing.”
AFTER

All research members of the University community **must**

- conduct their research with integrity, intellectual honesty, accuracy, and objectivity.
- engage in research that advances knowledge in the field
- demonstrate accountability for sponsors' funds; and
- comply with specific terms and conditions of contracts and grants.

Members of the University community engaged in research **must not**

- fabricate data or results;
- change or knowingly omit data or results to misrepresent results in the research record; or
- intentionally use the ideas, writings, research, or findings of others without citations

All members of the University researchers must have the appropriate regard for human and animal subjects. Institutional review boards will review all research involving human subjects. Institutional animal care and use committees will review all research involving animal subjects.



“There is no right way to do a wrong thing.”

TEST	BEFORE	AFTER
# of sentences	9	10
number of words	167	124
average # words per sentence	19	12
# years of education required (Gunning Fog)	15	11
Flesch Reading Ease	25	34

Eliminate jargon

- High-quality learning environments are a necessary precondition for facilitation and enhancement of the ongoing learning process.



- **Children learn best in good schools.**

2. What is plain language?

- Plain language is the use of proven writing and designing strategies that make it easy for the intended audience to **find, understand, and use** information.



- Clear | Credible | Concise

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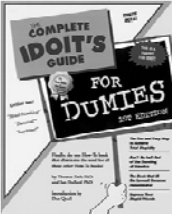
Why is plain language important?

- improves communication
- builds trust, saves time & money
- more likely to be read | responded
- clarifies issues
- tells readers what they want to know
- required by law in many situations
- **People have a right to understand.**



Myths about plain language


- means dumbing down
- oversimplifies or changes the meaning
- subverts legal terms of art
- means just changing words
- does not work as well as traditional legal language



3. How do we know it works?

Study of legal documents and the use of plain language improved 31%

- more likely to be read | understood
- easier to comply
- strongly preferred
- less likely to cause mistakes
- fewer questions | fewer complaints
- decreased some likelihood of litigation
- saved time and money



¹Michael E.J. Masson & Mary Anne Waldron, *Comprehension of Legal Contracts by Non-Experts: Effectiveness of Plain Language Redrafting*, 8 *Applied Cognitive Psychology* . 67, 75, 77 (1994).

Report Card for Agency Progress on Plain Writing Act				
Prepared by Center for Plain Language www.centerforplainlanguage.org				
Agency	Basic Act requirements ¹ (total = 100)	Grade 1	Other supporting activities ² (total = 200)	Grade 2
Agriculture (USDA)	93	A	148	B
Defense (DOD)	80	B	46	D
Homeland Security (DHS)	36	D	45	D
Justice (DOJ)	85	C	81	D
Labor (DOL)	80	B	29	F
Transportation (DOT)	64	C	30	F
Environmental Protection (EPA)	65	C	20	F
Health & Human Services (HHS)	72	C	130	B
National Archives (NARA)	80	B	91	C
Small Business (SBA)	70	C	88	C
Social Security (SSA)	65	C	118	C
Veterans (VA)	10	F	0	F

¹Basic Act requirements include such items as identifying agency lead
²Other supporting activities include additional activities, such as training.

4. What laws | regulations require plain language?

- HIPAA
- ERISA
- Dodd-Frank
- DOL 401(k) Fee Disclosure
- Plain Writing Act of 2010
- FAFSA
- US Department of Education:
U.S. Department of Education



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Health Insurance Portability and Accountability Act (HIPAA)

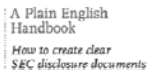
“A covered entity can satisfy the plain language requirement if it makes a **reasonable effort** to organize materials for needs of readers; write short sentences in active voice, use “you” and other pronouns; use common words; divide materials into short sections.”



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5. What are plain language strategies?

1. write for intended audience(readers)
2. organize for readers’ needs
3. use active voice
4. use pronouns
5. use positive language
6. be succinct
7. avoid jargon: use common words
8. be concrete; avoid ambiguity
9. write short sentences | paragraphs
10. use headings and lists
11. include visuals (tables, figures, etc.)
12. test document for readability



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For example...

**University of California – Policy PPSM-70
Complaint Resolution**



- include table of contents
- increase visual appeal
- use tables for easier understanding
- define words in context
- eliminate some legalese
- sound more helpful

Remember...

- No one ever complained that information was **too easy** to understand.



Use the active voice

- **Before:** Vacation leave **may be accrued** up to a maximum of two times an **employee's** annual accrual whether an employee holds a full-time or part-time appointment. **25 words**



- **After:** **Employees may accrue** a maximum of two times their annual accrual for either full-time or part-time appointments. **18 words**

Avoid wordiness

- Before:** Annual performance goals for Our Company are generally developed, initially, by ABC Co., an independent consulting firm with expertise in EVA-based incentive programs. The firm's recommended performance goals are reviewed by the committee. The committee approves the goals with any changes the committee determines appropriate. **47 words; 12th grade**
- After:** ABC Co., an independent consulting firm with expertise in EVA-based incentive programs, developed our annual performance goals. Our compensation committee reviews the goals and approves appropriate ones. **26 words; 11th grade**



Use common words and phrases

- Before:** NO PERSON HAS BEEN AUTHORIZED TO GIVE ANY INFORMATION OR MAKE ANY REPRESENTATION OTHER THAN THOSE CONTAINED OR INCORPORATED BY REFERENCE IN THIS BULLETIN OF POLICIES, AND, IF GIVEN OR MADE, SUCH INFORMATION OR REPRESENTATION MUST NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED.
44 word sentence, 25th grade
- After:** You should rely only on the information contained, or referred to, in this document or that we have referred you to. We have not authorized anyone to provide you with different information. **16 words average, 12th grade**

Design for easy reading



Why design and visuals matter?

- 43% likely to be persuaded
- 25 - 40% less time
- 38% better retention
- satisfies two modes of processing information



D. Reimbursement Standards

It is the policy of the University that all official travel shall be properly authorized, reported, and reimbursed in accordance with this Bulletin. Under no circumstances shall expenses for personal travel be charged to, or be temporarily funded by, the University, unless otherwise noted in this Bulletin. When a University employee travels under the sponsorship of a non-University entity, travel expenses, including advances, prepayments, or billings, shall not be charged to a University account or billed to the University; airline tickets must be obtained from the sponsor.

University employees traveling on official business shall observe normally accepted standards of propriety in the type and manner of expenses they incur. *In addition, it is the traveler's responsibility to report his or her actual travel expenses in a responsible and ethical manner, in accordance with the regulations set forth in this Bulletin.*

The University's travel reimbursement procedures contained in this Bulletin are designed to conform to the "accountable plan" rules published by the Internal Revenue Service (IRS). Therefore, University reimbursement of an employee's travel expenses shall not result in additional taxable income to the employee. Travel expenses considered by the IRS to be taxable income to the traveler are not reimbursable except for the following:

- Expenses for travel in excess of one year or

D. Reimbursement Standards

All University travel explained below occurs in compliance with the University's Travel Policies stated in this Bulletin.

All official travel must be properly authorized, reported, and reimbursed according to University Policy. Unless otherwise stated, the University will not reimburse or fund personal travel expenses.

Non-University Entities: If a University employee's travel is sponsored by a non-University entity, no travel expenses, including airline tickets, advances, prepayments, or billings, should be charged or billed to the University.

Expense Standards: University employees traveling on official business must observe normally accepted standards in the type and manner of expenses they incur. In addition, travelers are responsible for reporting their actual travel expenses accurately and ethically.

IRS Rules: The University's travel reimbursement procedures conform to the "accountable plan" rules published by the Internal Revenue Service (IRS). Therefore, University reimbursement of an employee's travel expenses must not result in additional taxable income to the employee. However, the IRS does consider some types of travel expenses to be both taxable and reimbursable:

- Expenses for travel in excess of one year or
- Certain travel expenses related to moving a new appointee to a current employee (refer to [BFBG @3](#), Policy and Regulations Governing Moving and Relocation, for more information).

D. Timeliness
 The employee must file a written complaint with the office designated in local procedures within 30 calendar days after the date on which the employee knew or could reasonably be expected to have known of the event or action that gave rise to the complaint, or within 30 calendar days after the date of separation from University employment, whichever is earlier. If the complaint alleges a series of policy violations or pattern of management actions that are subject to review under this policy, the complaint must be filed within 30 calendar days after the most recent policy violation or management action.

For a complaint regarding a layoff, the employee must file the written complaint within 30 calendar days after the effective date of the layoff. If a laid off employee is alleging violation of his or her recall or preference for reemployment rights, the employee must file the complaint within 30 calendar days after the date on which the employee could reasonably be expected to have known of the alleged violation, but no later than 30 calendar days after the employee's recall or preferential reemployment eligibility period ends, whichever is earlier.

READABILITY TEST	
# of words	4
# of sentences	191
average # of words per sentence	48
# of years of education (Gunning)	27
reading ease (Flesch)	12

D. Timeliness

Single Incident
 The employee must file a written complaint with the appropriate office at the local campus. The complaint must be filed according to the table below:

Number of Calendar Days	Conditions (whichever is earlier)
Within 30	After date employee knew or could have known of event or action in complaint, OR
Within 30	After date employee leaves University employment

Series of Incidents
 If the complaint alleges a series of policy violations or pattern of management actions subject to review under this policy, the complaint must be filed according to the table below:

Number of Calendar Days	Condition
Within 30	After the most recent policy violation or management action

Layoff Complaints
 For a complaint regarding a layoff, the employee must file the written complaint according to the table below:



Number of Calendar Days	Condition
Within 30	After the effective date of the layoff

If a laid off employee is alleging violation of his or her recall or preference for reemployment rights, the employee must file the complaint according to the table below:

Number of Calendar Days	Conditions (whichever is earlier)
Within 30	After date employee knew or could have known of the alleged violation, OR
Within 30	After date employee's recall or preferential reemployment eligibility period ends.

Use headings and lists

- How do you receive reimbursement for University travel?
- What factors do we use to determine eligibility?
- How do you report violations of policy?

Standards of ethical conduct (BEFORE)

5. Compliance with applicable university policies, procedures and other forms of guidance

University policies and procedures are designed to inform our everyday responsibilities, to set minimum standards and to give University community members notice of expectations. Members of the University community are expected to transact all University business in conformance with policies and procedures and accordingly have an obligation to become familiar with those that bear on their areas of responsibility. Each member is expected to seek clarification on a policy or other University directive he or she finds to be unclear, outdated or at odds with University objectives. It is not acceptable to ignore or disobey policies if one is not in agreement with them, or to avoid compliance by deliberately seeking loopholes.

Standards of ethical conduct (AFTER)

5. Complying with university policies, procedures, and other forms of guidance

University policies and procedures

- explain our everyday responsibilities,
- set minimum standards, and
- establish expectations of University behavior.

Members of the University community **must**

- conform with University policies and procedures,
- understand those policies and procedures that affect areas of responsibility,
- seek to clarify a policy or University directive that is unclear, outdated, or at odds with University objectives.

We may not ignore or disobey policies even if we disagree with them. We also may not avoid complying by looking for loopholes.

Certain University employees are governed by professional ethical codes or standards such as attorneys, auditors, physicians, and counselors. We expect such employees will comply with their professional standards as well as laws and regulations.

Readability

TEST	BEFORE	AFTER
# of words	157.00	127.00
# of sentences	16.00	19.00
Average # years of words per sentence	26.17	14.11
Grade level	23.40	15.41

Conduct usability tests

- test with real users
- 5 - 8 people for 90% of problems
- revise based on feedback
- decreases call-ins, confusion, misinformation
- increases clarity, compliance, goodwill, trust



6. How can your university benefit from using plain language?

- meet or exceed compliance
- be truly transparent
- restore public trust
- make values clear
- maintain integrity
- manage risk
- increase satisfaction
- affect the bottom line



6. How can your university benefit from using plain language?

UNIVERSITY of CALIFORNIA