

# PLAIN ENGLISH FOR DRAFTING STATUTES AND RULES

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# PLAIN ENGLISH FOR DRAFTING STATUTES AND RULES

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ISBN: 978-1-4224-9914-6

**Library of Congress Cataloging-in-Publication Data**

Martineau, Robert J.  
Plain English for drafting statutes and rules / Robert J. Martineau, Robert J. Martineau, Jr.  
p. cm.  
Includes index.  
ISBN 978-1-4224-9914-6  
1. Legal composition--United States. 2. Bill drafting--United States 3. Legislation--United States. 4. Administrative regulation drafting--United States. 5. Law--United States--Interpretation and construction. 6. Statutes--United States. I. Martineau, Robert J., Jr. II. Title.  
KF250.M365 2012  
352.80973--dc23  
2012030562

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MATTHEW  BENDER

# FOREWORD

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For the third time Professor Martineau, now joined by his son Robert J. Martineau, Jr., as co-author, has prepared a guide for drafting a statute or rule in Plain English. This book arises out of the experiences of both authors in the teaching of legislative drafting skills to both law students and professional drafters and extensive experience in drafting constitutional provisions, statutes, and administrative and court rules at all levels of government — federal, state, and local. It is based on the principles of Plain English as well as rules that govern the preparation of statutes and rules.

While the basic approach of Plain English continues in this book, it incorporates substantial differences from the previous books as well as other advocates of Plain English. First, it expressly builds on the work of Jeremy Bentham, who first developed the core principles of drafting statutes in Plain English at the end of the 18th century, as well as that of E. B. White and William Zissner in 20th Century, who stressed the importance of the simple declarative sentence as a key component of clear writing.

We address this book to two audiences. The first is law students who are introduced to legal writing in their first year but usually are never called upon to engage in the discipline of structured writing that statute and rule drafting requires. The second is the lawyer (or even non-lawyer) who drafts a statute or rule as a staff member of a legislative committee, legislative drafting service, government agency, private organization, bar association, or private client.

In the modern world, statutes and rules play an ever-increasing role in the lives of almost every person. For this reason it now more important than ever for those who draft these statutes and rules to be able to make them as readable and understandable as possible. That is the goal of this book.

This book could not, of course, been written without the assistance of a number of people. At the University of Cincinnati College of Law, Dean Louis Billionis was most supportive both financially and in offering encouragement. Assistant Dean James Schoenfeld was generous in ironing out practical details, and recent graduate Sarah Dwider, who assisted in the early research.

A special note of thanks is due to our research assistant, University of Cincinnati law student Krista Johnson. Not only did she do the usual type of research, she did much more — editing, finding examples of poorly drafted statutes and rules for the drafting exercises. She was also invaluable in converting all of the written material into the documents that were sent to our publisher. All of this did promptly and efficiently, while continuing as both a law student and law review staff member.

Robert J. Martineau  
Robert J. Martineau, Jr.

(Disclaimer note: The view express in this book are those of the authors only and do not necessarily reflect those of the State of Tennessee or its Department of Environment and Conservation.)



# DEDICATION

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**To our families, especially our wives Connie and Pam, without whose love and support this book could not have been written**





# TABLE OF CONTENTS

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<b>PART I</b>	<b>WHY STATUTORY AND RULE DRAFTING IS SO POOR AND HOW TO IMPROVE IT</b> .....	<b>1</b>
<b>Chapter 1</b>	<b>THE NEVER ENDING STRUGGLE</b> .....	<b>3</b>
A.	THE HISTORIC PROBLEM OF POOR LEGAL DRAFTING .....	3
B.	EFFORTS TO IMPROVE LEGAL DRAFTING .....	4
C.	THE SPECIAL PROBLEMS OF STATUTORY AND RULE DRAFTING . . .	5
D.	CRITICS OF PLAIN ENGLISH IN DRAFTING STATUTES AND RULES .	8
E.	OUR VIEW .....	9
<b>PART II</b>	<b>THE SPECIAL ENVIRONMENT OF DRAFTING STATUTES AND RULES</b> .....	<b>11</b>
<b>Chapter 2</b>	<b>HOW STATUTES GET MADE IN A LEGISLATIVE BODY</b> .....	<b>13</b>
A.	THE DRAFTING PROCESS .....	13
B.	THE ENACTMENT PROCESS .....	15
1.	The Formal Process .....	16
2.	The Political Process .....	19
<b>Chapter 3</b>	<b>FEDERAL ADMINISTRATIVE AND COURT RULEMAKING</b> .....	<b>23</b>
A.	FEDERAL ADMINISTRATIVE RULEMAKING .....	23
1.	History of Agency Rulemaking .....	23
2.	Source of Rulemaking Authority .....	24
3.	The Rulemaking Process .....	26
a.	Introduction .....	26
i.	The Informal Rulemaking Process .....	26
ii.	Commencing the Rulemaking Process — Advanced Notice of Proposed Rulemaking .....	28
iii.	Preparation of the Proposed Rule .....	28
iv.	Preparation of the Final Rule .....	29
v.	Exemptions from Informal Rulemaking Requirements .....	30
4.	Statutory Constraints on The Rulemaking Process .....	31
a.	Congressional Review .....	32
b.	Paperwork Reduction .....	32

---

*Table of Contents*

c.	Plain English . . . . .	33
d.	Small Business Impacts . . . . .	33
e.	Unfunded Mandates . . . . .	34
f.	Information Quality . . . . .	34
g.	Environmental Impacts . . . . .	34
5.	Executive Orders and Rulemaking Procedures . . . . .	35
a.	Cost vs. Benefit . . . . .	35
b.	Tribal Consultation . . . . .	35
c.	Energy Supply Implications . . . . .	35
d.	Federalism . . . . .	36
e.	Children and Environmental Health Risks . . . . .	36
f.	Environmental Justice . . . . .	36
g.	Property Rights and Takings . . . . .	36
6.	Judicial Review of Agency Rulemakings . . . . .	36
B.	FEDERAL COURT RULES . . . . .	38
<b>Chapter 4</b>	<b>STATE RULEMAKING . . . . .</b>	<b>39</b>
<hr/>		
A.	ADMINISTRATIVE RULEMAKING . . . . .	39
1.	Introduction . . . . .	39
2.	The Model State Administrative Procedure Act . . . . .	40
a.	Introduction . . . . .	40
b.	General Provisions . . . . .	40
c.	Public Access to Agency Law and Policy . . . . .	40
d.	Rulemaking Proceedings: Procedural Requirements . . . . .	41
i.	Introduction . . . . .	42
ii.	Commencing the Rulemaking Process — Advanced Notice of Proposed Rulemaking . . . . .	42
iii.	Notice of Proposed Rulemaking . . . . .	43
iv.	Final Rule Issuance . . . . .	44
v.	Petition for Rulemaking . . . . .	44
e.	Executive Review of Agency Rulemaking . . . . .	45
f.	Legislative Oversight of Agency Rulemaking . . . . .	46
g.	Judicial Review of Agency Rulemaking . . . . .	48
3.	Local Government Rulemaking . . . . .	48
B.	COURT RULES . . . . .	49
1.	Sources of Authority and Subjects Covered . . . . .	49
2.	Rulemaking Process . . . . .	50

---

*Table of Contents*

<b>Chapter 5</b>	<b>STATUTES AND RULES IN THE COURTS</b>	<b>53</b>
A.	THE MEANING OF STATUTORY INTERPRETATION OR CONSTRUCTION	53
B.	THE IMPORTANCE OF STATUTORY AND RULE INTERPRETATION TO THE DRAFTER	53
C.	STATUTORY RULES OF INTERPRETATION	54
D.	THE LITERATURE ON STATUTORY INTERPRETATION	55
E.	CANONS OF CONSTRUCTION LIMITED TO STATUTORY OR RULE TEXT	57
F.	CANONS OF CONSTRUCTION CONCERNING SOURCES OUTSIDE THE TEXT	59
G.	LEGISLATIVE HISTORY	60
<hr/>		
<b>PART III</b>	<b>CONSTITUTIONAL AND LEGISLATIVE RULES GOVERNING STRUCTURE OF A BILL</b>	<b>61</b>
<b>Chapter 6</b>	<b>MANDATORY FORM AND LANGUAGE</b>	<b>63</b>
A.	FEDERAL	63
B.	STATE	66
C.	CONTENT REQUIREMENTS	66
1.	Identification and Numbering System	66
a.	Federal	66
b.	State	66
2.	First Words	67
3.	Title and Single Subject	67
4.	Enacting Clause	68
5.	Amendments to Existing Law	68
6.	Municipal	68
7.	Examples of Bills and Ordinance	69
<b>Chapter 7</b>	<b>ARRANGEMENT OF BILL SECTIONS</b>	<b>73</b>
A.	MANDATORY PROVISIONS	73
B.	OPTIONAL PROVISIONS	73
1.	Short Title	73
2.	Purpose, Policy, or Findings Statement	73
C.	IMPLEMENTING PROVISIONS	74
1.	Placement in Existing Code	74
2.	Severability	74
3.	Saving Clause	74
4.	Effective Date	75

---

*Table of Contents*

5.	Emergency	76
D.	SUBSTANTIVE SECTIONS	76
E.	SUBDIVISION BY LETTERS AND NUMBERS	76
<hr/>		
<b>PART V</b>	<b>PRINCIPLES OF DRAFTING STATUTES AND RULES IN PLAIN ENGLISH</b>	<b>79</b>
<hr/>		
<b>Chapter 8</b>	<b>THE EFFECT OF STRUCTURE AND STYLE ON SUBSTANCE</b>	<b>81</b>
<hr/>		
A.	TO WRITE IS TO THINK	81
B.	THE RELATIONSHIP BETWEEN STRUCTURE, STYLE, AND SUBSTANCE	82
<hr/>		
<b>Chapter 9</b>	<b>THE DRAFTING PROCESS</b>	<b>85</b>
<hr/>		
<b>Chapter 10</b>	<b>PLAIN ENGLISH PRINCIPLES ON WORD CHOICE</b>	<b>89</b>
<hr/>		
A.	USE “COMMON AND KNOWN WORDS”	89
B.	ACHIEVE BREVITY AND CLARITY BY ELIMINATING UNNECESSARY WORDS	90
C.	USE SIMPLE RATHER THAN COMPOUND EXPRESSIONS	92
D.	ELIMINATE LEGALESE	93
E.	USE THE SAME WORD TO EXPRESS THE SAME THOUGHT — THE NECESSITY FOR CONSISTENCY	94
<hr/>		
<b>Chapter 11</b>	<b>AMBIGUOUS AND OTHER TROUBLESOME WORDS</b>	<b>97</b>
<hr/>		
A.	IMPORTANCE OF UNDERSTANDING WHAT TROUBLESOME WORDS ARE AND THE DIFFERENCES BETWEEN THEM	97
B.	AMBIGUOUS WORDS	97
C.	VAGUE WORDS	98
D.	GENERAL WORDS	99
E.	THE DIFFERENCES BETWEEN VAGUE AND GENERAL WORDS	99
F.	INTENTIONAL USE OF A VAGUE OR GENERAL WORD	99
G.	CONFUSING AMBIGUITY WITH OTHER TYPES OF POOR DRAFTING	100
H.	HOW TO ELIMINATE AMBIGUITY, UNINTENDED VAGUENESS, AND OVER AND UNDER GENERALITY	100
I.	COMMONLY MISUSED WORDS AND PHRASES	101
1.	“No Person Shall,” “Shall Not,” and “This Act (section) Shall Not Be Construed to”	101
2.	Assure, Ensure, and Insure	101

---

*Table of Contents*

3.	<i>Share</i> .....	102
4.	<i>Only</i> .....	102
<b>Chapter 12</b>	<b>PLAIN ENGLISH PRINCIPLES AND RULES ON DRAFTING A SENTENCE .....</b>	<b>103</b>
<hr/>		
A.	BASIC PRINCIPLES .....	103
1.	The Simple Declarative Sentence — The Drafter’s Best Friend .....	103
2.	Use Short Sentences .....	104
B.	GENERAL RULES ON CRAFTING THE SUBJECT AND PREDICATE .	105
1.	Make the Subject a Singular Rather Than a Plural Noun .....	105
2.	Use the Verb in the Predicate in the Active Rather Than Passive Voice . .	106
3.	Put the Verb in the Present Rather Than the Future Tense .....	106
4.	Use the Finite Verb Rather Than Its Noun Version .....	107
5.	Draft the Sentence in the Positive Rather Than the Negative Form .....	107
6.	Follow the Verb With an Object or Complement .....	108
C.	FURTHER RULES TO AID CLARITY .....	108
1.	The Subject .....	108
a.	Identifying the Subject .....	108
b.	Use an Article Rather Than an Adjective as the Subject’s Modifier . . . .	109
c.	Minimize Use of Pronouns .....	110
2.	The Predicate .....	111
a.	The Verb .....	111
i.	Place the Negative With the Verb in the Predicate Rather Than With the Noun in the Subject .....	111
ii.	Use “ <i>May</i> ” to Create a Right or to Grant Authority or Discretion . . . .	112
b.	Use “ <i>Shall</i> ” to Require an Action .....	112
3.	Rules Applicable to Both Subject and Predicate .....	113
a.	Place a Qualifier Before the Subject or After The Predicate and as Close as Possible to the Word Modified .....	113
b.	Punctuate With Care .....	114
c.	Tabulate for Clarity .....	116
<b>Chapter 13</b>	<b>RULES ON DRAFTING SPECIFIC PROVISIONS OR WORDS .....</b>	<b>119</b>
<hr/>		
A.	INTRODUCTION .....	119
B.	DEFINITIONS .....	119
1.	When to Define .....	119
2.	Placement of Definition .....	119
3.	The Difference Between “ <i>Means</i> ” and “ <i>Includes</i> ” .....	120
4.	Do Not Include Substantive Provisions With the Definition .....	120

---

*Table of Contents*

5.	Exclude the Word Defined from the Definition . . . . .	120
6.	Include Only Words That are Commonly Understood to Fit Within the Word Defined . . . . .	120
C.	CONDITIONS AND EXCEPTIONS . . . . .	120
1.	Conditions — <i>If, When, or Where</i> . . . . .	120
a.	<i>If</i> . . . . .	121
b.	<i>When</i> . . . . .	121
c.	<i>Where</i> . . . . .	121
2.	Exceptions . . . . .	121
3.	Establishment of a Governmental Entity or Position . . . . .	121
4.	Penalty . . . . .	122
5.	Age, Day, Date, Number, and Time . . . . .	122
a.	Age . . . . .	122
b.	Day and Date . . . . .	122
c.	Number . . . . .	123
6.	Capital Letters . . . . .	123
7.	Hyphen . . . . .	123
8.	Cross Reference . . . . .	123
<b>Appendix</b>	<b>EXAMPLES OF BILLS AND ORDINANCE . . . . .</b>	<b>125</b>

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