

# FORMS •CAMP 2022•

## Using Plain Language to Improve Court Forms

with Rochelle Klempner

# Forms Camp Topics

1. Form Design – On Demand
2. Plain Language – Today!
3. Accessibility – 7/27
4. User Testing – 8/10
5. Form Review and Revision – 8/17
6. Automation – 8/24



# FORMS •CAMP 2022•



## Cabin Time!

Working sessions

1. Plain Language - July 20
2. Accessibility - August 3

# Forms Camp Logistics



Campers are muted and off camera.



**Webinar is being recorded!**

Find it at [www.ncsc.org/webinars](http://www.ncsc.org/webinars)  
or on Forms Camp page  
[www.ncsc.org/formscamp2022](http://www.ncsc.org/formscamp2022)

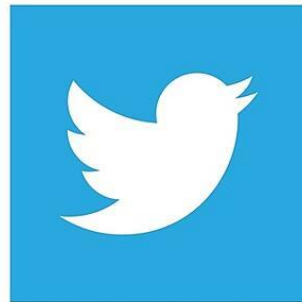


Use the Q&A box for questions.



Materials from will be posted  
on the Forms Camp page at  
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# FORMS •CAMP 2022•





# FORMS

## • CAMP 2022 •

Using Plain Language Writing  
to  
Improve Court Forms



*Rochelle Klempner, Esq.  
NYS Unified Court System  
Office of Court Administration  
July 13, 2022*

What is Plain Language?

1

Before You Write

- Identify the Audience's Needs
- Plan and Organize

2

Dos and Don'ts

- Keep it Conversational
- Choose Your Words Carefully

3

Review and Test

4



The background is a stylized landscape illustration. It features a range of mountains in various shades of teal and blue. In the foreground, there is a dense forest of evergreen trees, also rendered in shades of teal and blue. A large, bright sun or moon is visible in the upper right corner of the sky. The overall color palette is muted and naturalistic.

# What is Plain Language?

# What is Plain Language?

**Communication that your audience or readers can understand the first time they hear or read it.**



**01**

**Find what they need**

**02**

**Understand  
what they find**

**03**

**Use what they find to  
meet their needs**

# Plain Language is Not

NOT  
01



## **BABY TALK**

Plain language is **NOT** dumbing down the language.

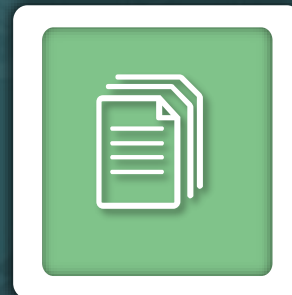
NOT  
02



## **REMOVING LEGAL DETAILS**

Plain language is **NOT** removing legal or technical details.

NOT  
03



## **EDITORIAL POLISHING**

Plain language is **NOT** changing “heretofore” to “here.”

# Literacy



50%

## LITERACY

Half of U.S. adults read at the 7th grade reading level and below.

# Federal Government and State Courts

**Plain Writing Act of 2010**  
requires federal agencies to  
use clear communication that  
the public can understand.

➤ [plainlanguage.gov](https://www.plainlanguage.gov)

**Conference of Chief  
Justices/Conference of State  
Court Administrators passed  
Resolution 5 in 2019 in support  
of clear communications in the  
courts.**

➤ [CCJ/COSCA  
Resolution 5](#)

# Benefits

01

**Improves Court  
Efficiency and  
Operations**

02

**Provides greater  
understanding and  
access to justice**

03

**Saves Time and Money**

04

**Improves Public  
Confidence and Trust**





## Written

Making the text, word structure and sentences themselves more understandable.

PART

01

## Visual

Designing the content to make it easy to understand.

PART

02

**Both are equally important**

# Review: Designing Your Content



# Before Plain Language

**Both Parties are Restrained and Enjoined From: Transferring, assigning, borrowing against, concealing or in any way dissipating or disposing of, without the consent of the other party or an order of the court, any marital property.** Expenditures of current income to maintain the marital standard of living and the usual and ordinary costs of operating the household are not restricted by this injunction. Each party shall maintain records of all expenditures, copies of which shall be available to the other party upon request.

## FORM VI INJUNCTION AGAINST BOTH PARTIES

<small>(Must be completed):</small>	COUNTY <small>(Must be completed):</small>
PLAINTIONS PARTIES	FILE#: <small>(Must be completed; Clerk assigns #)</small>
	DIVISION: <small>(For large counties only)</small>
DEFENDANT <small>(Name - First, Middle, Last):</small>	

### Restrained and Enjoined From:

concealing or in any way dissipating or disposing of, without the consent of the other party or an order of the court, any marital property. Expenditures of current income to maintain the marital standard of living and the usual and ordinary costs of operating the household are not restricted by this injunction. Each party shall maintain records of all expenditures, copies of which shall be available to the other party upon request.

transferring or allowing to lapse for nonpayment of any insurance policy covering life, health, disability, homeowners, or any other insurance that provides coverage to either of the parties, or any other financial asset, without the consent of the other party or an order of the court.

each party AND from making disparaging remarks about the other party OR to either party's employer;

Residence. Neither party shall relocate outside the state of Tennessee, or more than 100 miles from the marital residence, without the consent of the other party or an order of the court, except in the case of a removal of a child. In such cases, upon request of the non-relocating parent, the court will conduct an expedited hearing, by phone conference if appropriate, to determine the reasonableness of the relocation and to make such other orders as appropriate.

This injunction shall not preclude either party from petitioning the court for further temporary orders, an expedited injunction or modification or revocation of this injunction. This temporary injunction remains in effect against both parties until the final decree of divorce, order of legal separation is entered, the complaint is dismissed, the parties reach agreement, or the court modifies or dissolves this injunction. This injunction does not require the signature of a County Judge and, instead, operates automatically pursuant to Section 36-4-106(d) of the Tennessee Code Annotated because irreconcilable differences are not the sole ground alleged for dissolution of the marriage.

IT IS SO ORDERED, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

JUDGE

# After Plain Language Writing

Do not  
hide, or  
lower its  
spouse a  
that main  
usual op  
keep rec  
of those  
You must

**FORM 6**  
**COURT ORDER FOR DIVORCING SPOUSES**

STATE OF TENNESSEE	COURT	COUNTY			
<b>COURT ORDER FOR DIVORCING SPOUSES</b>		CASE #: <small>(the clerk files this)</small>			
		DIVISION:			
PLAINTIFF'S NAME <small>(person who asked for a divorce):</small>		DEFENDANT'S NAME <small>(the other spouse):</small>			
first	middle	last	first	middle	last

**Both spouses must obey all orders of the court.**

Do not sell, spend, transfer, assign, borrow against, hide, or otherwise dispose of marital property that lowers its value, unless the court orders it. You may use your income for expenses that maintain your marital standard of living and the usual and ordinary costs of operating expenses of your business. You must keep records of all expenditures, and you must keep copies of those records, if s/he asks for them.

You must not (unless the court orders it or your spouse agrees) assign any insurance policy that covers either spouse. You must not assign any insurance policy that names either spouse as beneficiary, or pay for any insurance policy premium that covers either spouse.

You must not harass, threaten, assault or abuse your spouse, or cause you or your spouse to be in a negative way to OR in front of your children, or your spouse's employer.

You must not move the children out of Tennessee, or more than 100 miles from the marital home, without the permission of the other party or an order of the court, except in the case of a removal based upon a well-founded fear of physical abuse against either the parent or the child. In such cases, upon request of the non-relocating parent, the court will conduct an emergency hearing, by phone conference if appropriate, to determine the reasonableness of the relocation and issue such other orders as appropriate.

This temporary injunction shall not preclude either party from applying to the court for further temporary orders, and the court may grant, modify or revoke this temporary injunction. This temporary injunction remains in effect against both parties until the final decree of divorce or order of legal separation is entered, the court is dismissed, the parties reach agreement, or until the court modifies or dissolves this injunction. This injunction does not require the signature of a Chancellor or Judge and, instead, operates automatically under Section 36-4-106(d) of the Tennessee Code Annotated because irreconcilable differences are the sole ground alleged for dissolution of the marriage.

Date: \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF JUDGE OR CHANCELLOR

st

**FORM VI**  
**STATUTORY INJUNCTION AGAINST BOTH PARTIES**

STATE OF TENNESSEE	COURT <small>(Must be completed):</small>	COUNTY <small>(Must be completed):</small>
<b>STATUTORY INJUNCTIONS AGAINST BOTH PARTIES</b>		FILE #: <small>(Must be completed: Clerk assigns #)</small>
		DIVISION: <small>(For large counties only)</small>
PLAINTIFF <small>(Name - First, Middle, Last):</small>		DEFENDANT <small>(Name - First, Middle, Last):</small>

**Both Parties Are Restrained and Enjoined From:**

Transferring, assigning, borrowing against, concealing or in any way dissipating or disposing without the consent of the other party or an order of the court, any marital property. Expenditures of current income to maintain the marital standard of living and the usual and ordinary costs of operating a business are not restricted by this injunction. Each party shall maintain records of all expenditures, copies of which shall be available to the other party upon request.

Voluntarily canceling, modifying, terminating, assigning or allowing to lapse for nonpayment of life, health, disability, and automobile, where such insurance policy provides coverage to either of the parties, or naming either of the parties as beneficiaries, without the consent of the other party or an order of the court.

Harassing, threatening, assaulting or abusing the other AND from making disparaging remarks about the other to or in the presence of any children of the parties OR to either party's employer; and

Relocating any children of the parties outside the state of Tennessee, or more than 100 miles from the marital home, without the permission of the other party or an order of the court, except in the case of a removal based upon a well-founded fear of physical abuse against either the parent or the child. In such cases, upon request of the non-relocating parent, the court will conduct an emergency hearing, by phone conference if appropriate, to determine the reasonableness of the relocation and issue such other orders as appropriate.

This temporary injunction shall not preclude either party from applying to the court for further temporary orders, and the court may grant, modify or revoke this temporary injunction. This temporary injunction remains in effect against both parties until the final decree of divorce or order of legal separation is entered, the court is dismissed, the parties reach agreement, or until the court modifies or dissolves this injunction. This injunction does not require the signature of a Chancellor or Judge and, instead, operates automatically under Section 36-4-106(d) of the Tennessee Code Annotated because irreconcilable differences are the sole ground alleged for dissolution of the marriage.

IT IS SO ORDERED, this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE



# After Plain Language Design

Both spouses  
Behavior

Property  
& Money

## Court Order for Divorcing Spouses

In the Family Court of: \_\_\_\_\_ County, TN

Case number (the clerk fills this in):  
\_\_\_\_\_

Division (if any): \_\_\_\_\_

Plaintiff's Name (person who asked for a divorce):  
first \_\_\_\_\_ middle \_\_\_\_\_ last \_\_\_\_\_

Defendant's Name (the other spouse):  
first \_\_\_\_\_ middle \_\_\_\_\_ last \_\_\_\_\_

### Both spouses must obey all orders below.

#### Behavior

##### You must not:

- Harass, threaten, assault or abuse your spouse.
- Talk about your spouse in a negative way to or in front of your children, or your spouse's employer.

#### Property & Money

- **DO NOT** sell, spend, transfer, assign, borrow against, hide, or do anything with any marital property that lowers its value, unless the court orders it or your spouse agrees. You may use your income for expenses that:
  - Maintain your marital standard of living,
  - Pay the usual operating expenses of your business.
- You must keep records of all expenses and give your spouse access to those records, if s/he asks for them.

#### Children

##### You must not move the children:

- Out of Tennessee, or
- More than 100 miles from the marital home, unless the court orders it or your spouse agrees.

*Exception:* If you have a good reason to be afraid that your spouse may hurt you or your children, you may go away. Later, you may ask the court for an emergency hearing and new orders. The court can hold the hearing by phone, if needed.

#### Insurance

##### You must not (unless the court orders it or your spouse agrees):

- Change, cancel, or assign *any* insurance policy that covers either spouse as beneficiary.
- Change, cancel, or assign *any* insurance policy that names either spouse as beneficiary.
- Stop paying for any insurance policy premium that covers either spouse.

You **must** follow this order unless the court changes or ends it, your case is finalized or dismissed, or you and your spouse make an agreement. Either spouse may ask the court to change or cancel this order.

Date: \_\_\_\_\_  
Signature of judge or chancellor

If irreconcilable differences are not the only grounds for divorce this order goes into effect automatically. It does not need to be signed by a judge or chancellor. (TCA § 36-4-106(D)).

## FORM 6

### COURT ORDER FOR DIVORCING SPOUSES

STATE OF TENNESSEE	COURT	COUNTY
COURT ORDER FOR DIVORCING SPOUSES		CASE #: _____ <small>(the clerk fills this in)</small>
		DIVISION: _____ <small>(if any)</small>
PLAINTIFF'S NAME (person who asked for a divorce): first _____ middle _____ last _____	DEFENDANT'S NAME (the other spouse): first _____ middle _____ last _____	

### Both spouses must obey all orders below.

**Do not sell, spend, transfer, assign, borrow against, hide, or do anything with any marital property that lowers its value, unless the court orders it or your spouse agrees.** You may use your income for expenses that maintain your marital standard of living or pay the usual operating expenses of your business. You must keep records of all expenses and give your spouse access to those records, if s/he asks for them.

**You must not (unless the court orders it or your spouse agrees), change, cancel, or assign any insurance policy that covers either spouse. You must not change, cancel, or assign any insurance policy that names either spouse as beneficiary. You must not stop paying for any insurance policy premium that covers either spouse.**

**You must not harass, threaten, assault or abuse your spouse. You must not talk about your spouse in a negative way to OR in front of your children, your spouse's children, OR your spouse's employer.**

**You must not move the children out of Tennessee, or more than 100 miles from the marital home, unless the court orders it or your spouse agrees.** Exception: If you have a good reason to be afraid that your spouse may hurt you or your children, you may go away. Later, you may ask the court for an emergency hearing and new orders. The court can hold the hearing by phone, if needed.

You **must** follow this order unless the court changes or ends it, your case is finalized or dismissed, or you and your spouse make an agreement. Either spouse may ask the court to change or cancel this order. If irreconcilable differences are not the only grounds for divorce this order goes into effect automatically. It does not need to be signed by a judge or chancellor. (TCA § 36-4-106(D)).

Date: \_\_\_\_\_

SIGNATURE OF JUDGE OR CHANCELLOR



## **Before You Write**

- **Identify the Audience's Needs**
- **Plan and Organize**



## Who is my audience?



**What are the needs and objectives of the audience?**

**What does my audience already know about the subject?**

**What questions will my audience have?**

## Fewer Defaults?



**ADA  
Accommodations**



**Sign Language**



**Interpreter**

**Add this information to a form's footer.**

# Plan and Organize

01

## DON'T BE WEDDED TO PAST FORM CONTENT

1. Create new content with what you learned about your audience.
2. Deadlines and court dates first.
3. Organize your content logically, keeping related concepts together.
4. Bury bad required language.

02

## INCORPORATE INSTRUCTIONS

1. Don't make litigants look elsewhere for instructions.
2. What is wanted should be clear from the text. Give examples.
3. Reference other forms and next steps that go with the form.

## OFFER OPTIONS

- Offer “pick all that apply” checkboxes of commonly submitted statements
- Offer “select only one” radio buttons when checking more than one choice would be contradictory.
- Include a free text “other” option so the litigant can add their own answer
- Other \_\_\_\_\_

Use Checkboxes and Radio Buttons

COMMONLY USED TEXT

Limit Free Text

## LIMIT FREE TEXT

A free text question is an open-ended question that allows the filer to express themselves in a free-flowing manner without any constraint or format.

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## **Dos and Don'ts**

- **Keep it Conversational**
- **Choose Your Words Carefully**

# Keep it Conversational



## Do Use the “You” Pronoun

1. Speaks directly to the reader
2. Makes it more relevant
3. Make it clear who “you” is referring to

## Do Use Active Voice

1. Clearer who is supposed to do what
2. Passive can be o.k. when it is unknown who is responsible

## Do Use Present Tense

1. Simplest form of the verb
2. Not “should be brought” use “bring”



# Keep it Conversational cont'd

01

**Don't Use Legalese**

02

**Don't Use Latin**

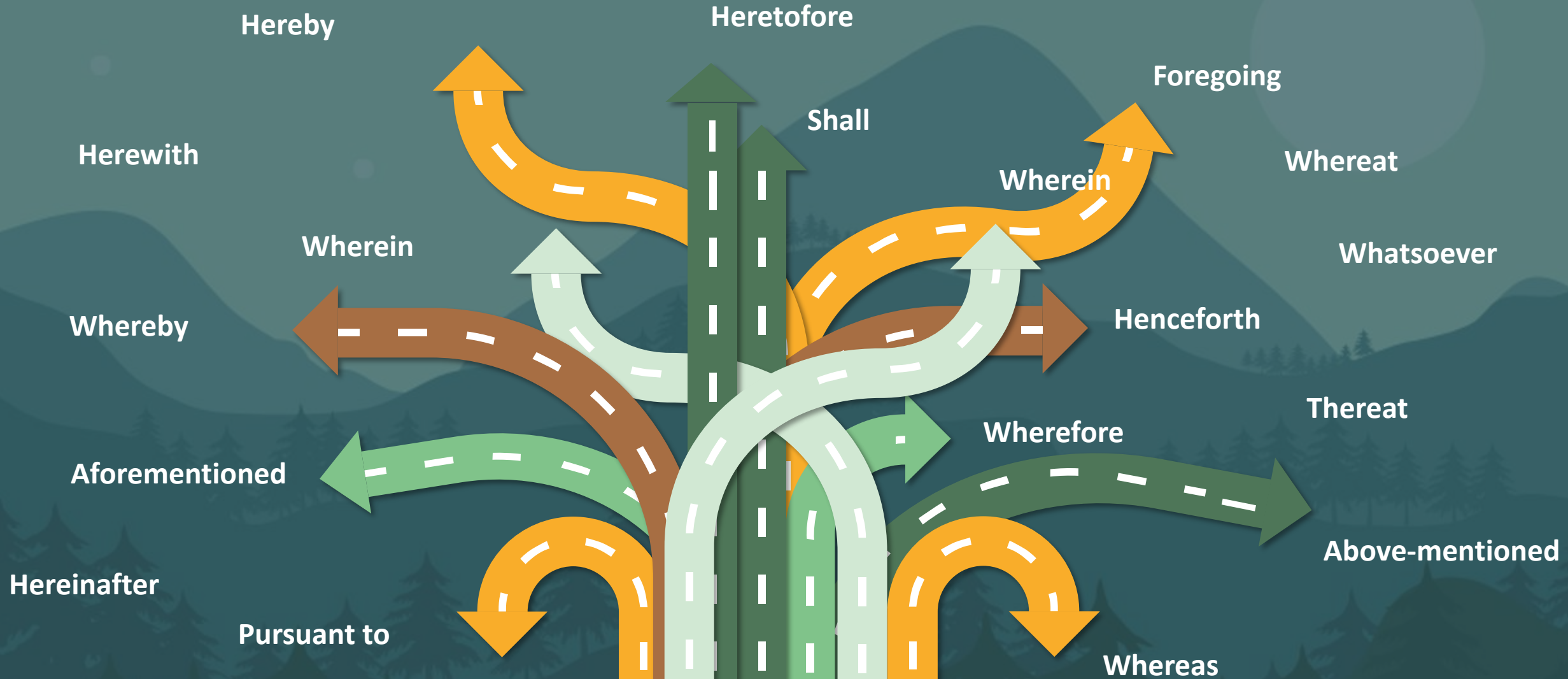
03

**Do Use Familiar Words**

04

**DON'T USE ALL CAPS (it's shouting)**

# Don't Use These Words



## Legalese

**If the court determines that an individual does not meet the threshold requirements to receive poor person's relief, then the individual shall be liable to pay to the court the total sum of the filing fee to which the individual is not entitled.**

**If the court finds that you are not entitled to a fee waiver, you must pay the entire filing fee.**

# Choose Your Words Carefully

01

**Don't Use Acronyms**

1. Spell it out.
2. Don't Assume.

02

**Do Include Legal Definitions**

1. Using legal terms is o.k.
2. But define them. For example, 'I consent to the court's jurisdiction. Jurisdiction gives the court the power to make decisions and judgments in this case.'

03

**Do Use Positive Wording**

1. Positive wording, simpler and clear. For example, instead of, "you will not receive an index number until you pay the filing fee" say, "You will receive an index number when you pay the filing fee."
2. Positive tone is less threatening.

04

**Don't Use Hidden Verbs**

1. Often end in: -ment, -tion, -sion, -ence, -ance, -ity, and -al.
2. Add no meaning and make sentences longer.
3. Instead of: "is applicable to," write "applies to." Instead of "make an application," write "apply."

# Choose Your Words Carefully



## DO DEVELOP A GLOSSARY

There's on in your materials to start you off. Add to it and keep it in your plain language toolbox.



## DO USE THE SAME TERMS CONSISTENTLY

Do not unnecessarily confuse the reader by using different words for the same thing. If you call it a form, don't also call it a document and also call it the papers.



## DO USE SIMPLE WORDS AND PHRASES

Short words and fewer words. For example, replace "due to the fact that" with "because." Short sentences. Short paragraphs.



# Simple Words and Phrases

Can you improve it?

Initiate, commence

Begin, start

Afford an opportunity

Allow

Terminate

End

Substantial portion

Large part

On a monthly basis

Monthly



# Choose Words Carefully cont'd

## PARTIES

Use description language to identify the parties in place of, or in addition to plaintiff/petitioner, defendant/respondent.

For example, in a divorce case: Spouse 1 and Spouse2. In a housing case: Landlord and Renter. In a domestic violence case: person needing protection and person you want to be protected from.

Identify Parties

HELPING TEXT

Simplify the Form Name

## FORM NAME

You must name the form something that is descriptive. Do not be wedded to the current name of the form.



# Do Simplify the Form Name

## Can you improve it?

Subpoena Duces Tecum

Order to Bring Documents

Order to Show Cause

Order to Go to Court

In Forma Pauperis

Request to Waive Court Fees

Minor Name Change Petition

Request to Change a Child's Name

Affidavit of Service

Proof of Delivery of Papers

# Choose Words Carefully cont'd

## PEOPLE FIRST

Avoid labels that reinforce the identity that a person may seek to move beyond. Avoid stereotyping language.

Person Centered Language

**INCLUSIVE LANGUAGE**

Gender Neutral Nouns and Pronouns

## GENDER NEUTRAL

Don't assume. This alone may require overhauling all your court's forms.



# Person-Centered Language

## Can you improve it?

Mentally ill

Person with mental health conditions, person with mental illness

Poor person

Person experiencing poverty, living with poverty

Disabled person

Person with a disability, person who has a disability

Debtor

Person with unmanageable debts

Homeless person

Person experiencing homelessness

Blind person

Person with loss of vision

Victim

Survivor

Ex-con

Person who was formally incarcerated



# Gender Neutral Pronouns



**He, him, his,  
himself**



**She, her, hers,  
herself**



**They, them,  
theirs, themselves**

# Gender-Specific Nouns

Can you improve it?

Husband/Wife

Spouse

Mother/Father

Parent

Businessman

Businessperson

Workman

Worker

Foreman

Supervisor

# Further Considerations

## Simplify Notarizations, Affirmations, Verifications

(Unless prohibited by a court rule or statute)



“I swear to the truth of statements hereinbefore mentioned under penalty of perjury.”



“I swear to the truth of everything above and I know I can be prosecuted for the crime of lying.”

“The Affiant must swear before a Notary Public to the truth of the matters asserted.”



“You must swear in front of a Notary Public that the information is true.”

## Simplify Captions

The trend in plain language is to get rid of the old plaintiff vs. defendant box style caption that nonlawyers do not know how to fill out. That prime real estate is replaced with plain language questions that capture the same information.

Let’s look at some examples from [Hawaii](#), [California](#) and [Tennessee](#).

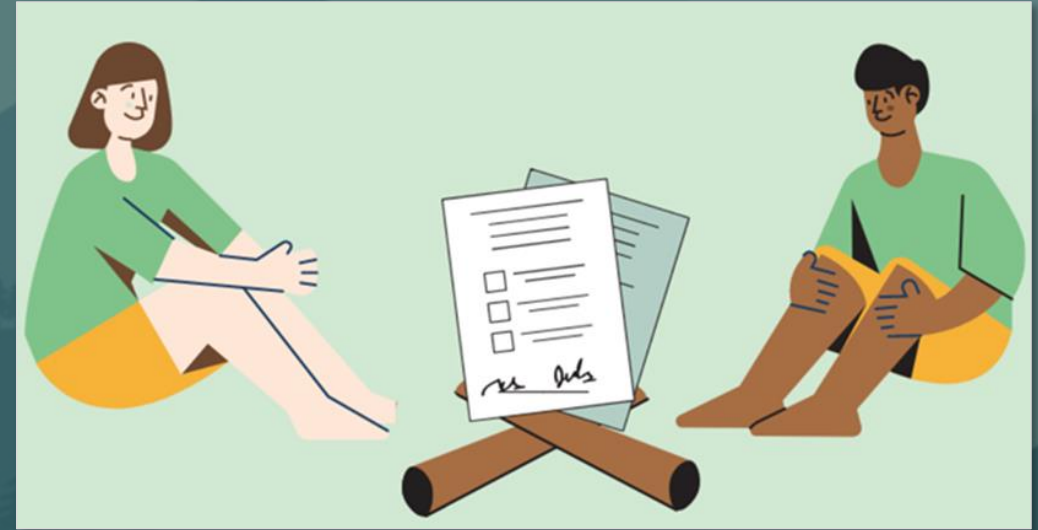


**Question**

**Review and Test**

## Revise and Proofread

Once you have a draft of the form, it's time to go back and edit. Review your work for plain language. First, simplify long words (use the glossary). Next shorten your sentences. Delete words you don't need.



## Find a Buddy

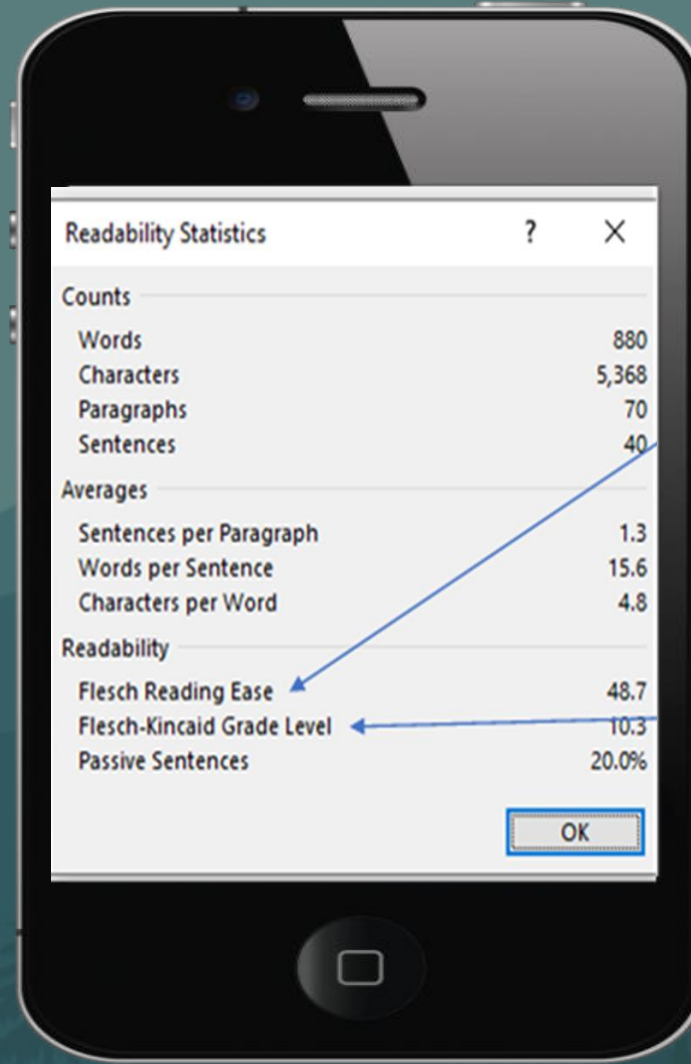
If possible, find a plain language friend to work with and read and edit each other's writing.



# Check Readability Score



- ✓ This is scored 1-100
- ✓ The higher the score, the easier the text is to read
- ✓ A score above 80 is easy to read



Flesch-Kincaid  
Level



- ✓ This is scored by school grade level
- ✓ This score of 10.3 means that a 10<sup>th</sup> grader can understand this form

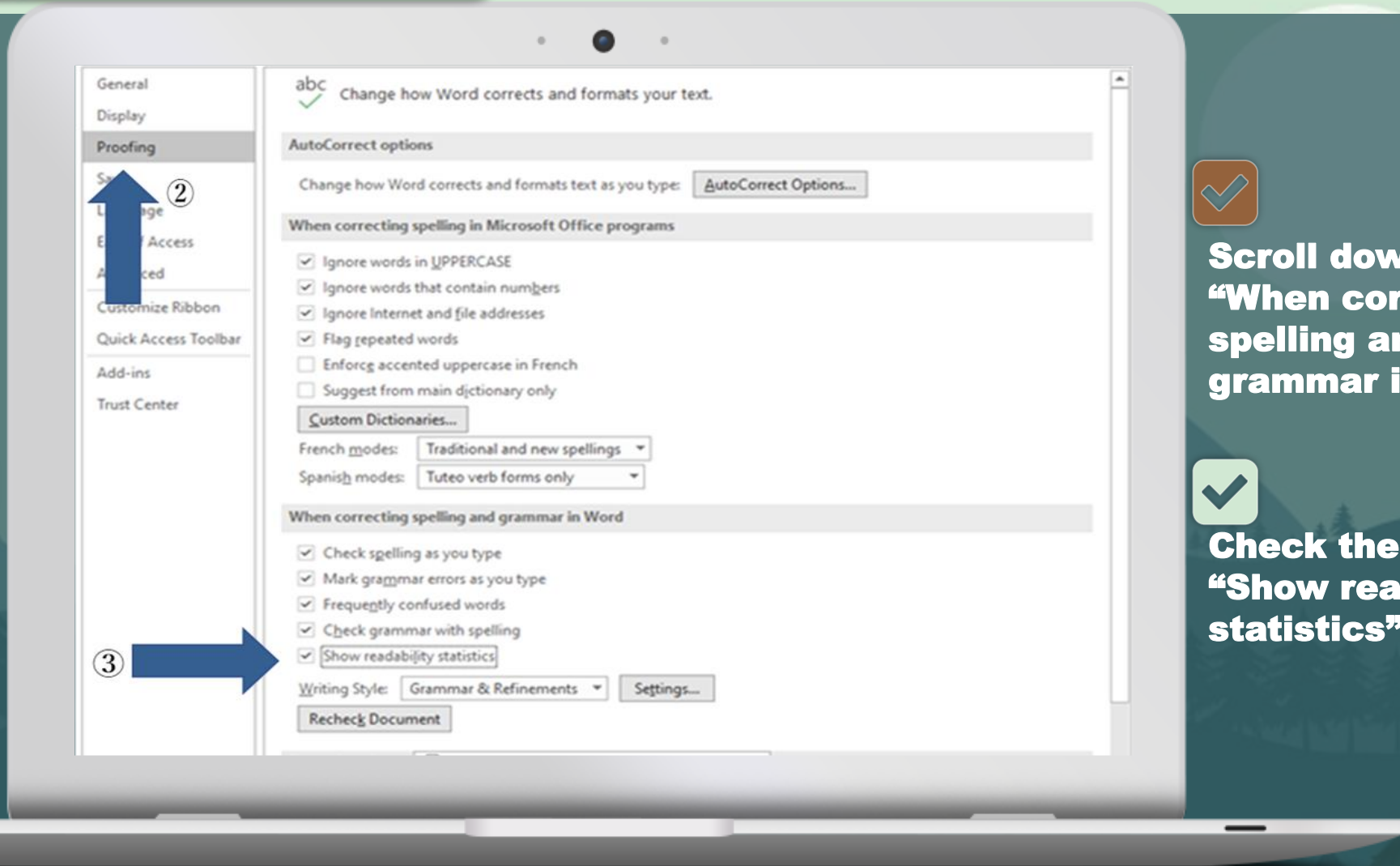
Aim for a 5<sup>th</sup> – 8<sup>th</sup> grade reading level

# Check Readability Score

Go to File > Options



Choose Proofing



Scroll down to “When correcting spelling and grammar in Word”



Check the box for “Show readability statistics”

Your readability score will appear after a spell check

# Test

## SHOW THE FORM TO NON-LAWYERS

A court form that is not tested on actual users is just our best guess as to what we think people will understand. Test:

- Help Centers
- Law Libraries
- Clerk's Offices
- Focus Groups
- Online Surveys
- Show your form to non-lawyer colleagues, staff and friends

**Rochelle's  
Mom**



**Thank You**



**Rochelle Klempner**  
New York State  
Unified Court System

Email: [rklempne@nycourts.gov](mailto:rklempne@nycourts.gov)  
Tweet: [@roklempner](https://twitter.com/roklempner)



### Forms shared during this presentation:

- New York State Court: Name Change and/or Sex Designation Change Petition for Individual Adult (person 18 or over)
- New York State Court: Notice of Court Date: Rent Not Paid
- Washington State Court: Summons Served by Mail
- Illinois State Court: Application for Waiver of Court Fees
- New York State Court: Joint Affidavit of Facts and Agreement with Children
- Hawaii State Court: Small Claims Statement of Claim and Notice for Security Depositi Disputes
- California State Court: Proof of Personal Delivery
- Tennessee State Court: Petition for Order of Protection and Order for Hearing