Editing Decisions: Improving Word Choice and Clarity

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Introduction

This class should help you edit any type of text but its primary focus is the editing of written decisions that follow administrative hearings. Writing a good decision is not easy. Judges who write interesting articles and newspaper columns often write cumbersome, lifeless decisions. The often unspoken purpose of the written decision is to persuade the reader that the decision is correct. Thus, the aim of the class is to write decisions that are easily read and understood using sentence structure and words that enliven and persuade—that "show" as well as "tell."

I. The Step Before Editing: Writing

This class is about editing but I would be remiss if I didn't provide some writing basics. If you habitually follow these five simple suggestions, you'll have less editing to do later:

A. **Don't assume you know** everything you need to know about spelling, grammar and punctuation. The English language is not static. Methods of writing, including grammar usage and punctuation, change over time. If you write as you were taught in high school or college, though not incorrect, it may date you. Have a reliable source with you when you write and when you edit such as Strunk and White's *Elements of Style* or the *Practical English Handbook*.

B. **Know your weaknesses**. Are you overly fond of using a particular word or phrase? Is your writing sloppy about pronoun agreement? Should you use that instead of which? You can't catch your writing errors if you don't know what they are. If you think you don't have any weaknesses, congratulations on achieving perfection. (Not really.)

C. **Know your strengths and build on them**. Just as we may have bad habits, when it comes to writing, we all have our strengths, too. Identify what you think works best about your writing and carry it through the text of your decision.

D. **Cut what isn't essential**. There will be sentences and perhaps entire paragraphs that you can do without because they say nothing that hasn't already been said. If it merely restates what's already been said, even if said in a different way, it's unnecessary. If it doesn't directly relate to the facts or the issues, it's unnecessary.

E. **Plain, simple writing is best**. Legal writing, including opinions and decisions, have long been verbose and needlessly convoluted. Some attorneys continue to write that way because they are trying to obfuscate. Our goal is to clarify. Say it simply.

Good writing involves more listening to what was just created than creating but the finished product should be the outcome of the first thought.

II. Decisional Structure and Content

How many sections should there be in a decision? It depends on who you ask. It depends on the type of decision. Decision-writing is somewhat flexible. There are as many different types of decision templates as there are types of administrative hearings. The titles or headings for the sections may also be called by different names.

Although structure is flexible, there are certain elements that must be in every written decision. These names for these different elements may differ.

1. **Introduction**: This section is often called the Statement of the Case. It typically cites the statutory authority which authorizes the agency to conduct the hearing, identifies the hearing participants, provides the date and time for the hearing, explains what transpired prior to the hearing that makes it necessary and may include the result of the case.

2. **Issues Statement**: A simple and concise statement of the questions to be resolved by the decision (*i.e.* a concise explanation of the scope of the hearing).

3. **Findings of Fact**: The purpose of this section is to set out the material facts that form the basis for the Conclusions of Law.

4. **Discussion** or **Analysis** or **Rationale**: This section explains how the Findings of Fact were reached in light of the contentions of both parties. It should address the conflicting arguments of the parties and should explain your reasoning clearly and concisely. It must, to avoid appeal and remand, explain how conflicts or contradictions in evidence were resolved. If the testimony of one witness contradicted that of another, you must explain which witness you believed and why you found the other's testimony unreliable.

5. **Conclusions of Law**: How the applicable law was applied to the facts of the case.

6. **Order**: This section specifies the sanction to be imposed and includes any necessary instructions, including the method for appealing the decision.

III. The Tone of the Decision

A. The overall tone or nature of your decision should be neutral and matter-of-fact. Read your opinion as if you knew nothing about the case. Would the decision sound neutral to a disinterested party or does it seem as if you are favoring one side?

B. A written decision is no place for humor. When you're on a state or federal supreme court, you can afford to be amusing. Until then, keep any attempts at humor out of your decision. Humor can come off as arrogance, especially to the losing side.

C. Use gender-neutral terms: letter carrier instead of postman, fire-fighter instead of fireman, police officer instead of policeman, chairperson instead of chairman, etc.

D. Do not use words are phrases that are:

1. Pompous
2. Condescending
3. Insensitive
4. Inflammatory
5. Facetious

IV. Proofreading: The Heart of Editing

A. **Set aside time for revising, proofreading, and editing**. Most of us think of our work time as consisting of two primary tasks: conducting hearings and writing decisions. Proofreading and editing, when done correctly, is time consuming. You're more likely to become a better editor if you actually set aside time in your schedule for editing. According to the Society for Editors and Proofreaders, assuming 300 words per page, a person may edit and proofread a document at the rate of 10 pages per hour.

B. **Take Regular Breaks.** It's tough to maintain focus on detail-oriented work for more than 30 minutes at a time. If your attention seems to wane, take a break.

C. **Let your document sit.** Has it ever seemed that the more you looked at the document the less you saw it? It's true. Our brain is programmed to take mental shortcuts. It has the tendency to "fill in the blanks" when there are deficits in what we see. The more we read the same document, the more likely our brain is to take those mental shortcuts. When the sentence says "of" but it should say "or," our brain is unlikely to catch the error if we've been looking at this same document for a long time. It is best to leave the document overnight. You're more likely to see it with fresh eyes and renewed attention. If you must finish it today, set it aside for as long as you can.

D. **Use varying methods of review.**

1. **Read Aloud.** It forces you to say each word and hear how the words sound. Whereas reading silently allows you to skip over errors or make unconscious corrections. Reading aloud also helps us discern when something doesn't sound right—even if it's grammatically correct—and adjust.

2. **Isolate the Text.** View the text line by line, sentence by sentence, by using a blank sheet of paper to cover any text that you've not yet reviewed. This keeps your eyes from wandering and your attention from shifting.

3. **Review backward by paragraph.** Review one paragraph at a time in reverse order, starting with the last paragraph. When reviewing for substance, reading

paragraph by paragraph is effective. Starting in reverse enables a fresher look than rereading it again in the normal order.

E. **Review in stages**. Do not try to proofread for meaning, order, sentence structure, grammar, punctuation, spelling and word choice in one read. Most good editors will give the document at least three reads, checking for different things each time.

1. **First reading is for meaning**:

   a. Is the sequence of the decision logical?

   b. Is the decision too short? Are all questions answered? Is more information needed? Are there elements that need more development?

   c. Is the decision too long? Does it go off on tangents that can be cut? Are there repetitive sentences that should be removed? Is there "scaffolding" that was useful in drafting the decision that can now be eliminated?

   d. Does your decision logically flow from facts presented? Can you visualize the events from which the facts were drawn as you read the decision? Does each section serve the purpose (answer the questions) for which it was intended? Revise or remove any sentence that does not flow logically from the previous one, lead logically to the next one, or sound right.

2. **Second reading is for clarity and succinctness**:

   a. Have you removed unnecessary phrases? Have you used simple "subject-verb-object" sentences?

      Example: **What she wanted was** a flashy new pair of shoes.
      Revised: She wanted a flashy new pair of shoes.

      Example: **One of the main reasons for doing this is** to finish tasks faster.
      Revised: Following this process ensures you finish tasks faster.

   b. Are there sentences that announce what you're going to say or sum up what you've already said? Remove them.

   c. Is it written in first person? (No imperial "we," no referring to yourself in third person: "The administrative law judge finds…".)

   d. Is it written in active (rather than passive) voice? Passive voice occurs when the doer comes last. To fix it, just put the doer first.

      Example: More than five hundred children **were** evacuated from the town by the firefighters and volunteers.
      Revised: Firefighters and volunteers evacuated more than 500 children.

Example: It **is** believed by the teachers that students should **be** required to pass in order to go to the next grade.
Revised: Teachers believe students should pass the test to go to the next grade.

e. Have unnecessary adjectives and adverbs been eliminated?

f. Are there simple words that should replace complex words?

3. **Third (picky) reading is for spelling, grammar, punctuation and word choice**.

   a. Have you checked spelling?

   b. Have you checked punctuation?

   c. Have you checked all the numbers to see that they are correct? (numbered lists, numbers in case citations, etc.)

   d. Do pronouns match the subject or object they are replacing?

   e. Have you cut "be" verbs and replaced them with stronger verbs?

   f. Have you eliminated nominalizations?

   g. Have you repeated the same words or the same phrases too many times? Use "Ctrl F" to find repetitive words. Use "Shift F7" to find replacements.

   h. Are modifiers next to the words they modify?

   i. Could you choose better words? Have you removed weak adjectives and reworded weak sentences?

4. **The final test belongs to the ear**. Read the decision aloud. If after all corrective surgery a sentence sounds bad when read out loud, get rid of it and re-write it.

V. Pronoun-Noun Agreement

Pronouns allow us to refer to the same person, place, thing or idea repeatedly without using the same noun every time. The following sentence becomes less awkward when pronouns are used:

Without pronouns: Mary thinks that Mary should sell Mary's car to Mary's brother.
With pronouns: Mary thinks that **she** should sell **her** car to **her** brother.

Pronoun Types

Demonstrative (this, that, these, those)
Indefinite (anybody, something, etc.)
Intensive or reflexive (yourself, herself, myself)
Interrogative (who? which? what?)
Personal (I, you, he, she, we, they)
Possessive (my, your, her, his, their)
Relative (who, whom, whose, which, that)

Selecting the Right Pronoun

Every pronoun must agree with its antecedent (the noun to which the pronoun refers or which it replaces) in both number and gender. Most do this easily until the antecedent is an indefinite pronoun. Indefinite pronouns refer to or replace nonspecific people, places, things, or ideas.

The **following indefinite pronouns are always singular**. Consequently, pronouns that refer to them will always be singular as well:

anybody	either	neither	somebody
anyone	everybody	nobody	someone
each	everyone	no one	one

Incorrect: **Everybody** needs to bring **their** assignment to class.
Correct: **Everybody** needs to bring **his or her** assignment to class.

Sometimes, a singular antecedent's gender is unknown, or the antecedent refers to a group of both genders. To avoid gender bias, use both the masculine and feminine pronouns.

Incorrect: **Everyone** returned **his** books to the library.
Correct: **Everyone** returned **his or her** books to the library.

If using *he* or *she* or *his* or *her* sounds awkward, you can usually rework your sentences so that the antecedents of unknown or mixed gender are plural:

Awkward: **Everyone** turned in **his or her** homework and got out **his or her** textbook.
Better: **All** of the class members turned in **their** homework and got out **their** textbooks.

VI. Strategies to Eliminate "Be" Verbs

The eight verbs that indicate a sense of being (Is, Am, Are, Was, Were, Be, Being, Been) can make your text feel static, dull and heavy. They're seldom needed to make a point and are weaker than active verbs.

1. Change the main verb from "be" plus "ing" to a single, more active verb.

Example: You **should be asking** her for help.
Revised: You **should ask** her for help.

Example: This play **is inspiring** to all those who struggle with depression.
Revised: This play **inspires** those who struggle with depression.

Example: The monster **was** in the dark tunnel **creeping** along.
Revised: The monster **crept** down the dark tunnel.

2. Change the "be" verb to a stronger verb.

Example: She **is** sad that the kids can't play together anymore.
Revised: She **feels** sad that the kids can't play together.

Example: The skyscraper **was** spectacular.
Revised: The skyscraper **looked** spectacular.

Example: This pie **is** delicious.
Revised: This pie **tastes** delicious.

3. Eliminate the "be" verb by writing one or more "showing" (descriptive) sentence(s).

Example: The teacher **was** mean to Jason.
Revised: The teacher slammed her hands down on the desk, peered into Jason's eyes, and said, "What did you do?" She didn't wait for him to answer. She just grabbed him by the arm and pulled him out of his chair.

You're thinking: "This adds more words. Aren't we supposed to simplify?" It isn't *always* about word count. Sometimes it's about engaging the reader. The revised sentence is still written simply but the additional words make it far more descriptive.

4. Combine sentences to eliminate the "be" verb.

Example: The inefficient time manager **is unfulfilled**. Although he checked everything off on his to-do list, he heads to bed, disappointed.
Revised: The inefficient time manager **heads to bed, unfulfilled,** despite completing his to-do list.

VII. Nominalizations

"Nominalizations" are the grammarians label for the practice of taking a perfectly good verb and turning it into a noun by adding a suffix (*e.g.* -ing, -tion, -ance, -or, -y, etc.) When we turn a verb into a noun, we must add helping verbs, often "be" verbs, to get the same meaning across.

Nominalized: Before **attendance** at a pre-hearing conference, lawyers should **seek confirmation** of authority to **enter into a settlement** agreement.
Better: Before **attending** a pre-hearing conference, lawyers should confirm their authority to **settle**.

Nominalized: The **implementation** of this study **was initiated** as a result of our **discovery** of the poor sales **performance** of our running shoes.
Better: When we **discovered** that shoe sales were lagging, we decided to study why.

Nominalized: **Analysis** of the issues **was performed** by the witness.
Better: The witness **analyzed** the issue.

Nominalized: He **was** angry with the situation.
Better: The situation **angered** him.

Nominalized: The sensitive child **was** feeling that sad because of the news story.
Better: The news story **saddened the sensitive child**.

Nominalized: Charles Schulz **was** the creator of the Peanuts cartoon strip.
Better: Charles Schultz **created** the Peanuts cartoon strip.

The natural tendency is to write like we speak which means your first draft may have lots of "be" verbs and nominalizations. Don't stress about it. You can rewrite during the editing phase. If a sentence sounds wordy and weak, it probably uses nominalizations and "be" verbs. If the rewritten sentence sounds more cumbersome, you can always go back to the original sentence.

VIII. Using Modifiers Correctly

Place modifiers next to the words they modify—another piece of obvious advice that's easier to give than to follow. Strunk and White offer an example we should all memorize, because "only" is a slippery word. Perhaps one time in ten it starts out in the right place:

He only found two mistakes.
He found only two mistakes

The literal meaning of the first statement is hard to pin down. Is it that he found two mistakes, but he made others, or that he only found two mistakes, but he found and corrected others? The second version of the statement is clearer because the editor moved "only" to a position next to the word it modifies. Every rough draft, no matter how skilled the writer, contains misplaced modifiers, with results that are often ludicrous.

"All the members were not present" needs to be revised to "not all the members were present" unless the secretary is reporting on a meeting that no one, including the secretary, attended.

IX. Choosing Better Words

Weak: They were not enjoying the editing process.
Better: They hated the editing process.
Best: The editing process repulsed them.

Removing Weak Adjectives

The words “really” and “very” and extremely overused and can virtually always be removed and the sentence reworded to make a briefer but more descriptive statement.

Weak: He was really scared of snakes
Better: He was terrified of snakes.
Best: Snakes terrified him.