

Book Review

Richard C. Wydick and Amy E. Sloan, *Plain English for Lawyers*, 6th Edition, Durham, N.C.: Carolina Academic Press, 2019, pp. 178, \$25 (paperback)

Reviewed by George Mader

First published in 1979,¹ Professor Richard Wydick's *Plain English for Lawyers* sold well over a million copies through its first five editions. Sales have stayed strong throughout the past forty years; the fifth edition (2005) sold roughly 200,000 copies. Those are astounding numbers for a legal text. The sixth edition was published in time for the 2019–2020 school year and is off to a strong start, with course adoptions in roughly half of American law schools. This edition adds a co-author, Professor Amy Sloan,² following Professor Wydick's death in 2016.

I begin with a holistic review of the book, along with my assessment of why the book has been so effective. Then, for the benefit of the many who already know the previous editions of *Plain English for Lawyers*, I offer a summary of significant changes in the sixth edition. I finish with chapter-by-chapter remarks on the book and a conclusion.

Good legal writing is no mean feat. Beyond the substantive content of law and analysis, good legal writing conveys its meaning immediately to the reader's cognition, flowing into the reader's mind as easily as the (oftentimes complex) substance allows. But much legal writing bears little resemblance to this description. Rather than clear and concise, the writing is, at least in part, ambiguous, vague, and cluttered. These flaws needlessly increase the cognitive burden on readers, preventing their smooth travel on the trail of understanding.³ Ambiguity strands readers at crossroads, with multiple possible meanings pointing in

George Mader is an Associate Professor at the William H. Bowen School of Law, University of Arkansas at Little Rock. He has taught various legal writing courses at five law schools over the past nineteen years.

1. The first edition of *Plain English for Lawyers* was based on Wydick's law review article by the same name, appearing in the California Law Review. See Richard C. Wydick, *Plain English for Lawyers*, 66 CAL. L. REV. 727 (1978); see also Richard Wydick, *Remarks—Acceptance of Golden Pen Award*, 11 LEGAL WRITING xi (2005).
2. Sloan is a very successful author in her own right, having written multiple textbooks for legal research, including a standard in the field. See AMY E. SLOAN, BASIC LEGAL RESEARCH: TOOLS AND STRATEGIES (8th ed. 2021).
3. Writing that places an unnecessary cognitive burden on readers leads them to seek information from other, sometimes competing, sources. When I was a judicial clerk, if an appellant's brief

different directions. Vagueness brings readers to a complete stop at the edge of a mystifying cloud devoid of any particular meaning. Clutter saps readers' energies by forcing them to slog through unnecessary words and sentences, trudging to the writer's point.

New and struggling writers very often lack a sensitivity to their own unclear or wordy writing.⁴ They cannot see the ambiguity or vagueness in their writing because they know what they intend. They cannot see the clutter in their writing because they are familiar with their own writing "voice." Good writing is the result of intent; you decide repeatedly how to communicate to your readers. Spilling out your thoughts in a manner that makes sense to you is merely a writer's draft; it is not close to the end of the process. Thinking about writing as communication, thinking about the audience, requires the ability to see your writing as if you are not *you*. The ability to move between writing as yourself and reading as the intended audience is both necessary to good writing and *so very* difficult to learn. A text that can help law students and dedicated self-directed learners through the process is a true contribution to legal writing.

Plain English for Lawyers makes exactly that contribution. The book aims to solve difficulties writers have clearly conveying their points to readers. The chapters address how to eliminate unnecessary page-filling and mind-clogging words; to replace vague words with concrete, familiar words; to use strong, active verbs in short sentences; to correctly punctuate and structure sentences so they are not ambiguous; to present information in its most understandable order; and to format text in a way that improves ease of reading and understanding. Throughout, exercises offer opportunities to practice what the text teaches. The true genius of the book, though, is the mode of its instruction. Part of what its readers learn is the *desire to write better and the means to develop a purposive approach to writing*—a running internal discussion helping them decide how to write their message.⁵ That intentionality is very hard for a novice writer to develop.

was unclear on an issue, I would reach for the opposing brief to see if it might shed some light on the topic. To the extent that allowed the appellee the advantage of creating a first impression on me as to framing the law and facts, it was an advantage lost to the appellant. In my experience, judges operated similarly. Everything was read, but the clarity with which arguments were presented could determine the order in which they were read.

4. This book aims to help lawyers and law students communicate clearly with an audience. But the ability to write clearly has another value. For many of us, writing is the true test of our understanding. We know what clear writing is and can use that standard of clarity to measure our thinking. If we cannot express an idea clearly in writing, if it "doesn't write," the intellectual discomfort we experience tells us we don't understand what we are trying to say. But those who cannot write clearly also cannot use their writing as a check on their thinking. If they experience the intellectual discomfort I've described, it gives them an indistinct message. They cannot tell if the problem lies in their understanding or in their writing. That is a significant professional handicap. Writing clearly, even if it is only for oneself, is profoundly important.
5. The importance of intention, of having a reason for writing a sentence or a paragraph in a particular way, is noted several times in *Plain English for Lawyers*, e.g., using the active voice unless "you can articulate a good reason for using passive voice (31)" and "[a]bstraction is a

The book repeats the following pattern in explaining the various pieces of writing advice: (1) show how and why writing is less clear and less concise when the advice is not followed; (2) offer methods that help writers find places in their own writing where they are not following the advice; (3) demonstrate how one implements the advice in practice, and (4) point out the decisions made in implementing the advice.

Chapter 3, “Use Verbs to Express Action”, offers a clear (if very simple and short) example of this pattern, so I have detailed the steps below. The chapter first gives some background information, describing the relationship between base verbs (like “decide”) and the nouns derived from them (like “decision”). The chapter names these nouns “derivative nouns,” but many readers will know them as “nominalizations.”

1. Illustrating the flaw in using derivative nouns in place of base verbs.

In this chapter, the authors try to prevent the wordiness and hazy communication often introduced when writers unthinkingly focus on a state of being rather than actions. This misplaced focus results in base verbs being replaced by their derivative nouns. A perfectly good verb has become a noun, so a new verb is needed and even more words are then needed to link the new verb to the derived noun. For instance, “make a statement why you are interposing an objection” could be the much simpler “state why you object.”

2. How to find derivative nouns that should be base verbs.

Some writers, having been pointed to the base verb/derivative noun relationship, will be able to clear out unnecessary derivative nouns almost immediately. Others have great difficulty seeing derivative nouns in their own writing because they have a habit of thinking in those static formulations. Like water to a fish, their own derivative nouns are unnoticeable to them. The chapter helps such writers spot potential derivative nouns so they can check which, if any, should be simplified into base verbs. The warning flags offered are:

- a. suffixes created when base verbs are changed to derivative nouns (e.g., -ance, -ment, -ion);
- b. weak verbs that often are added to derivative nouns (“to be” verbs, and, e.g., make, have); and
- c. phrases in the form: [article] [derivative noun] [preposition] (e.g., “an administration of,” “the insertion into”).

Note that none those flags require the writer-editors to go beyond a mechanical “this is/is not a derivative noun.” At this point, that is a good thing. Simplified flagging is needed for writers who have not yet developed the ability to see the derivative nouns in their own writing.

virtue only if it is both necessary and intentional. Knowing when to be vague and when to be concrete is part of the art of lawyers (58).”

3. How to replace derivative nouns with their associate base verbs.

The introductory discussion, and (1), above, along with examples, show the reader how to unwrap the base verb from the derivative noun and rewrite the phrase.

4. Deciding which derivative nouns to replace.

The chapter concludes with points regarding intent and decision-making. It first notes instances in which derivative nouns serve a purpose, but then warns: “[d]o not overuse them. When you find one on your page, stop to see if you can make your sentence shorter and stronger by using a base verb instead (25).”

There are several exercises at the end of the chapter that allow the reader to work through steps (2), (3), and (4) repeatedly.

In combination, and repeated throughout the book, the steps in the pattern show readers how to find various problems in their own writing and to think about how best to communicate with their audiences. Steps (1) and (3) are relatively straightforward. They are done very well in the book, but the steps themselves are standard for a writing text. Step (2) is critical for writers who find it difficult to spot flaws in their own writing. The book gives readers simple flags that signal possible instances of each problem, flags unrelated to context and substance. That flagging allows people to search through their own writing without hearing their own voice or intent. In step (4), the reader experiences how writing for an audience is an intentional, attentive act. Eventually, the writers using the book no longer need specific flags or reminders about exceptions—they can consider the needs of their readers, spot problematic writing in a more organic manner, and consider how best to resolve the problems. In short, they learn the act of editing their own work for an audience.

The clear, engaging, and effective mode of instruction in *Plain English for Lawyers* has made it a popular text. Strong sales and continued adoptions through successive editions attest to this. When a text is as well loved as *Plain English for Lawyers*, readers can be concerned about the enterprise being taken over by a new author. Have no fear. Professor Sloan nails the difficult task of modifying a classic. She displays the daring to change what could be improved, the restraint to leave alone the very excellent, and the wisdom to know the difference.

Sloan’s changes facilitate the purposes of the previous editions. She also manages a wonderful continuation of Professor Wydick’s writing style; even on a close read, the text appears written by one author. The most obvious change made by Sloan is the entirely new Chapter 10, “Use Easy-to-Read Design Techniques,” which is a valuable, practical, and perhaps overdue addition. That chapter extends the act of clear communication with the reader to the physical act of reading: the actual pages of text the reader’s eyes pass over.

But Sloan’s best and most important addition to the book is subtle and easy to miss, even for a reader searching for changes in the new edition. By numerous small changes throughout the book, Professor Sloan has made the book

easier to learn from and more accessible to those with weaker backgrounds in writing basics. A few of the categories of change I found most important are:

1. Additional road-mapping paragraphs at or near the beginning of chapters (for example 26, 33, 39, 56 & 71);
2. Explicit notes linking the content of different chapters of the book by previewing upcoming ideas or reaching back to previous content (for example 5, 25 & 40);
3. Revised headings for topics and subtopics, making them more readily understandable and engaging to writing novices;⁶
4. Introduction to grammatical terms, parts of speech, etc., in a manner likely to connect to a reader who does not know the relevant terminology. In many instances, the previous edition simply assumed more grammar knowledge than today's beginning law student brings to class. Here Sloan nicely threads a narrow-eyed needle. Teaching grammar terminology is not the goal of the book, but discussing writing problems can require readers understand various aspects of grammar. Sloan has facilitated those discussions by adding a few paragraphs providing background knowledge many readers lack.⁷

Sloan made two larger-scale structural changes that likewise make the content more readily understandable. First, almost all of Chapters 7 and 8 of the fifth edition (“Choose Your Words with Care” and “Avoid Language Quirks”) have been combined into one chapter (Chapter 7, “Choose Your Words Carefully”). The new Chapter 7 preserves the distinction between positive endorsements and negative warnings but recognizes both categories address wording choices.⁸ Second, the fifth edition's long Chapter 9 on punctuation has been divided into a chapter on comma usage (the new Chapter 8) and a chapter on other punctuation (the new Chapter 9).

If the book is a journey to writing clearly and concisely, Wydick provided a direct route. Sloan's work adds some improved entrance ramps, a few better merges, a smoothed roadway, and many helpful road signs, among other improve-

6. There are many instances of this change. For example, Sloan changes “Avoid Word-Wasting Idioms” to “Avoid Word-Wasting Expressions.” *Id.* at 13. For a reader who is unsure precisely what an idiom is, the former heading creates a cognitive aversion, or at least a cognitive tentativeness. But virtually anyone is comfortable with the term “expression.” Likewise, “Focus on the Actor, the Action, and the Object” is renamed “Avoid *It is* Sentences.” *Id.* at 16. The obviously colloquial “*It is* sentences” is in no way intimidating, but the previous heading's use of “actor” and “object” required the reader be comfortable with more formal terms. The content of the section is unchanged; the heading is simply a half-step closer to where some novice writers are.
7. For example, under the topic “Avoid Compound Constructions,” Sloan has added a paragraph explaining prepositions and conjunctions, and offers helpful phrasing templates (e.g., “preposition-noun-preposition”) for finding compound constructions in one's own writing (11). Students who do not initially understand the term “compound construction” are aided by the descriptors.
8. Sloan also has removed a few pages (pages 61-65 of Wydick's fifth edition) aimed at contract or legislation drafting.

ments. Those additions can seem insignificant one at a time, but collectively they make for an altogether better and more certain trip to the destination. Such engineering confers little glory, but it is very important to teaching and learning. The result of Sloan's modifications is a book that, even better than previous editions, serves struggling legal writers (especially, but not exclusively, beginning law students facing new expectations for clarity and concision in their writing). I considered the previous edition of *Plain English for Lawyers* to be accessible and clearly arranged, but Sloan's alterations shine a brighter light on the topic, and the advantage is undeniable.

Chapter-by-Chapter Remarks

A Few Words About the Exercises and Teacher's Manual

Plain English for Lawyers is intended to be "a concise, practical guide to clear legal writing . . . [useful] as an instructional text, writing supplement, or resource for self-directed efforts to improve [one's] writing (xi)." I have used the book as a writing supplement for my first-year legal writing courses. It is also fair to say I have along the way used it in "self-directed efforts to improve" my writing. Fulfillment of either of those aims requires exercises readers may use to test their understanding and practice their editing. The exercises are well conceived and plentiful. Some sets of exercises are narrowly focused on just a few pages of the text; others are cumulative over chapters; all have answers in the exercise key at the back of the book.

The teacher's manual for *Plain English for Lawyers* is helpful no matter how one uses the book.⁹ It contains helpful background and supplemental material; it has dozens of additional exercises. For those who use the book as an instructional text, the teacher's manual is perhaps indispensable. It lays out a short course of six lessons (covered in eight 75-minute sessions) that run through the full book. With only a little supplemental material meriting a couple more class sessions, the book can form the basis for a one-credit module or intersession course. The manual notes that one might use the six lessons as the basis for an intensive one- or two-day CLE.

Chapter 1: Why Plain English?

The very short first chapter announces "[t]he premise of this book is that good legal writing should not differ, without good reason, from ordinary well-written English (5)." To that end, the book lists several characteristics of plain English, each of which prefers brevity and clarity to any imagined "lawyerly" tone. In later chapters, it will be important that readers adopt that mindset.

Chapter 2: Omit Surplus Words

This is a very important chapter, so I want to be somewhat detailed here.

9. The fifth edition of *Plain English for Lawyers* also featured a teacher's manual; the differences between the old and new versions generally mirror the differences in the text itself, discussed earlier in this review.

For the book's project to work, its readers must buy into the virtues of simplified writing derived from plain English. I have always found the book's message on this point reaches my students. I attribute that success to the book's advice on how to spot bad sentence construction: divide the words in a sentence into working words and glue words. Working words carry the meaning of the sentence. Glue words bind the working words into a grammatically correct sentence (7-10, 147 n.1). For example, in the previous sentence, the working words are: glue, words, bind, working, words, grammatically, correct, sentence. The glue words are: the, into, a. This division is imprecise (as the book itself notes), but it is also a tremendously helpful tool to students, who frequently can intuit the two categories despite lacking strong knowledge of grammatical terms. Note how this division is step (2) in the pattern or instruction I described earlier. Novice writers don't need to be able to critique their writing "voice" to count glue words and working words.

One wants to have as few glue words as will allow the working words to state the content of the sentence, and a writer should be suspicious of a sentence with a high ratio of glue words to working words. To reduce the number of glue words and keep the meaning of the sentence, the writer must rearrange words. Note that the writer's consideration of which words to remove and how to rearrange those that remain is step (4) in the instructional pattern mentioned earlier.

Having shown the reader how to identify the first wave of words that can be cut without altering the content of the sentence, the chapter then identifies other easy-to-locate potential cuts:

1. compound constructions (e.g., "in order to," replaceable by "to"; "on the ground that," which can be replaced by "because");
2. verbose expressions (e.g., "in many cases," which really means "often"; and "at that point in time," replaceable by "then"), and;
3. sentences starting with "it is," (which frequently contain an unnecessary introductory phrase).

By the end of the chapter, when the text encourages readers not to regard long-used redundant legal phrases (e.g., "full and complete," "alter or change," "for and during the period") as sacred cows, even beginning law students are ready to make the cuts.

In addition to helping students find the most easily eliminated instances of unthinking wordiness, the chapter urges them to "develop a distaste for surplus words (13)," guiding them to a habit of tightening their writing on their own. That is valuable in later chapters, where the virtue of eliminating unnecessary words becomes one reason for adopting a given stylistic change.

Chapter 3: Use Verbs to Express Action (discussed in detail, above)

Chapter 4: Prefer the Active Voice.

Active voice generally gives the shortest, clearest statement of a thought. This chapter substantiates the value of active voice by pointing out how the passive

voice results in longer sentences (by this point in the book, reason enough for the reader to prefer active voice) and creates ambiguity if the actor is left out of the sentence (e.g., “the ball was kicked”).

Chapter 5: Use Short Sentences

“Law . . . involves complex ideas. Figuring out how to communicate complex ideas with short, clear sentences requires skill (33).” The authors provide a process: Separate the elemental ideas making up the complex thought, organize them in a logical order, and then write one or more shorter sentences to replace the single complex sentence (34-36). The sentences in the series should follow two linked rules of thumb: (1) “[i]n *most* sentences, convey only one main thought”; (2) “[k]eep the *average* sentence length below 25 words (36).”

Chapter 6: Arrange Your Words Carefully

This has always been my favorite chapter of the book, because poor sentence structure is perhaps the single problem that most plagues my students: The order of their words and convoluted arrangements of clauses create ambiguity and sometimes simply lead the reader to give up trying to make sense of the writing.

True to the instructional pattern detailed earlier in this review, this chapter begins with examples of sentences made unclear by poor sentence structure. It then gives strategies for detecting this problem in one’s own writing by describing and offering examples of the usual suspects causing poor structure: objects placed far from verbs; and the misplacement of exceptions, conditions, and modifiers. Then the chapter offers corrective instruction.

Chapter 7: Choose Your Words Carefully

As noted above, Chapter 7 contains both positive endorsements and negative warnings as to word choices, mostly in the name of clarity. The book promotes concrete words over abstractions. It both states a rule of thumb that you should use abstract language only if you have particular reason to be abstract, and it warns that using abstract language may be an indication you do not understand what you are trying to say (58). In a similar vein, the chapter urges readers, when characterizing facts, to do so forthrightly with strong verbs and nouns (“he preyed on the poor” rather than the weaker “he took advantage of people with limited resources”). Among the warnings: Avoid multiple negatives (because repeated oscillation of the sentence’s truth/falsity is confusing) and do not use the same word to mean different things (66-68).

The chapter also advocates use of gender-neutral language (59-61). It offers several ways to avoid gendered language and supports using the singular “they” to refer to an individual who prefers that pronoun (60-61). However, it advises against using the singular “they” for other singular nouns, including an individual who is unknown and whose pronoun preference is unknown (68).¹⁰

10. For what it is worth, this accords with my view. Among the strategies to avoid both the singular “they” and gendered language simultaneously, the book offers: writing to avoid a pronoun,

Chapter 8: Use Commas Carefully

The chapter defines the basic terms necessary for understanding correct usage of commas: subject, predicate, phrase, and independent and dependent clauses. The chapter points out how comma misplacement raises clarity issues, then explains correct comma usage for (1) connecting independent clauses with a conjunction, (2) setting off from the rest of the sentence an introductory clause or nonessential elements, (3) separating items in a list, and (4) setting off dates, geographical terms, and short quotations. Each topic has its own exercises, along with a cumulative set of exercises at the end of the chapter.

For those who may want to know the book's stance on the Oxford/serial comma: It recommends using the serial comma to avoid ambiguity (as when the last two items could be misunderstood to be a single, combined item).

Chapter 9: Use Other Punctuation Marks Correctly

Like incorrect comma usage, other types of incorrect punctuation routinely cause ambiguity as to the meaning of a sentence, or make a sentence state clearly something the writer does not intend. The chapter starts with simple sentences ending in periods, question marks and exclamation marks (88-89). It then moves through the gradually more difficult (for me, anyway) rules regarding semicolons, colons, parentheses, and dashes (89-97). Chapter 9 finishes with hyphens and apostrophes (98-102). For whatever reason, my recent experience with students indicates they have little understanding of the proper use of apostrophes, so I was happy to see that this section states things clearly and starts with the most basic rules—the sixth edition even informs readers that the spoken contraction they have used all their life is “should’ve,” not “should of (102).” It is sad but true that this is a necessary inclusion.

Chapter 10: Use Easy-to-Read Techniques

This is a new chapter in the sixth edition. The book aims to teach how to convey meaning clearly, so topics like the font and layout in which text is presented are certainly relevant and useful. The chapter describes the relevant attributes and virtues of various fonts and weights (bold, italics, etc.) (107-108). It then addresses the management of white space: margins, line spacing, and text alignment (109-111). The chapter finishes with formatting for headings, lists, tables, and a few special considerations for e-mail (111-116).

Plain English for Lawyers promotes in its readers an appreciation for clarity and concision. It offers them methods for spotting unclarity and wordiness in their own writing, and it guides them in deciding what to correct and how. After working through that process a few times, readers can develop a more organic ability

pluralizing (so “they” is accurate), using second person rather than third person (so “you” can be the pronoun), repeating the noun, and judicious use of passive voice (60-61). The book also considers “he or she” to be acceptable in moderation, where fitting (60).

to see their own mistakes. They then can write with intent, having reasons for their decisions. Put simply, the book teaches, and it teaches well enough that, as with all good teachers, it eventually makes itself unnecessary to the student.