



Developing Environmental Law Champions

Strengthening the Capacity For Environmental and Climate Change Laws
in Asia and the Pacific



Legal Writing – Best Practices and Key Resources

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Objectives

- Inspire ADB's Environmental Law Champions in the to improve their skills and tools—especially in legal writing-- for more effective teaching.
- Enable ADB's Environmental Law Champions and those they teach to publish their legal memoranda, articles, and other documents so that all of them may help meet our environmental challenges.



Key Areas

- Clarity
- Advocacy
- Contents of a basic format of a legal memo
- Active over passive voice
- Citations and sources
- Plagiarism



Clarity

- Clarity--Use a comma after each of three terms except the last. Strunk and White, Elements of Style (Fourth Edition), Rule 2.

Example: My usual breakfast is coffee, bacon and eggs and toast.

It is unclear whether the eggs are being grouped with the bacon or the toast. Adding a serial comma removes this ambiguity.

(<http://www.shadesofcrimson.com/2011/02/06/using-the-serial-comma/>)



Advocacy

Advocacy--Always start with a statement of the main issue before stating the facts, according to Cicero who was a very successful lawyer and politician in the time of Caesar.

A. Scalia and B. A. Garner, Making Your Case: The Art of Persuading Judges, p. 25.



Basic format of a legal memorandum—

- Know your audience,
- Identify each person or entity addressed in your memo,
- Indicate your name and position,
- Indicate the date of your memo, and
- Indicate the subject of your memo in about 8 words.



Basic format of a legal memorandum—Summary of Issues and Answers

- Use a number and boldface type to introduce each issue and answer. [1. “**Ex parte Communication...**”]
- Provide a Short Answer: Usually in two or three sentences without citation of a case name or statute.



Basic format of a legal memorandum—Discussion

Use a number and boldface type under this heading.
[1. **“Permissibility of ex parte...”**]

Start with facts of the memorandum, not with the legal discussion of the facts.

Then provide legal discussion in the order of the Summary of Issues and Answers.



Basic format of a legal memorandum—Conclusion

Using words like those in the **Summary of Issues and Answers**, state the legal conclusion. [“ex parte communications” would be allowed in this case.]

Don’t insert new facts, arguments, citations, or sources here.

Then indicate action to be taken. [we should talk to our opposing general counsel]

B. A. Garner, TheRedbook, (Third Edition) pp. 403-404.



Prefer the active voice over the passive

(“John wrote the company” as opposed to “The Company was written by John.”)

Garner, Legal Writing in Plain English: A Text with Exercises (Second Edition), p. 36.



Citations and Sources

- Help readers to verify the source.

“Enhance your credibility.” B. A. Garner, The Redbook, p. 147



Plagiarism

Claiming the credit for someone else's mental work, whether to make money, get a better grade, or to seem smarter, is a serious academic offense.

Students get into trouble over four basic mistakes:

1. Missing attributions so source is not properly identified,
2. Missing quotation marks, so that another's words seem to be claimed by one's own,
3. Close paraphrasing at length, so that the essence of an extended passage derives from an unnamed source; and
4. Inadequate citation, so that the reader cannot tell the extent of reliance on a given source, or what parts the researcher has relied on.

B. A. Garner, The Redbook, p. 560.

