
Reviewed by Fredric Gale, University of South Florida

Most lawyers, especially those who have read Bleak House, think that the public’s perception of lawyers is largely molded by Charles Dickens, while some critics of the legal profession consider Dickens’ picture of lawyers too humane. According to James Boyd White, the cause of the public frustration with lawyers is not only the arcane vocabulary and complicated sentence structure that characterize legal discourse, but also the unstated conventions that sometimes make even perfectly simple statements by lawyers incomprehensible. Nevertheless, in the last two decades or so the legal profession has responded to criticism of the unreadability of legal documents—especially those, like insurance contracts, that affect a large number of consumers—by attempting to replace its Baroque writing style with a more readable one.

Lawyers’ acceptance of the need for readable public documents has been misconstrued by many English scholars as a recognition by lawyers that they are not effective writers. However, the majority of lawyers do not agree, generally seeing themselves as effective writers. Clear and Effective Legal Writing, by Vedra R. Charrow and Myra K. Erhardt, contrary to the authors’ stated purpose, should be used as a textbook for pre-law students rather than for law students or professionals already admitted to practice. Pre-law students are less likely to reject out of hand the need for improvement in their writing skills, but another reason why I recommend this book only for pre-law students is the unfortunate tendency of the authors to talk down to their readers. For example, this paragraph appears at the top of page sixty-five:

Look at the pleading on page 66. As you may remember, a pleading is a legal document used to state the facts that make up the plaintiff’s cause of action or a defendant’s defense. In other words, pleadings give each party an opportunity to tell his or her story to the court—to articulate grievances or deny accusations.

Most law schools require courses in pleading in the student’s first year. Those students who have been in such a course for more than a week and who cannot “remember” what pleadings are will not be around long enough to benefit from a course in legal writing. Those who have not yet taken such a course can quickly find out the meaning of “pleading” by reading the simplified form of complaint on page sixty-six. I do not want to overemphasize the importance of this kind of address, but I think it is sufficiently significant that instructors may wish to limit the use of this textbook to undergraduate writing courses.
However, Charrow and Erhardt's book does have some important strengths. First, it is carefully organized, taking the reader from a discussion in the first chapter of "What Is Legal Writing?" through the writing process from initial planning to preparation for writing a particular document. Second, it uses excellent examples throughout, often actual documents (with the names changed) prepared by lawyers. And third, the writing style is simple, concise and clear, as if to demonstrate the effectiveness of the authors' advice.

The plan of the book appears in the useful process diagram appearing on page five of the introduction. In the second chapter, the authors provide some instruction on the historical purposes, methods, and categories of legal writing. Here the authors take up the question of why legal writing is so often convoluted and archaic. They correctly point out that old words in legal discourse are not replaced as readily as in lay discourse in order to maintain specialized meanings.

The main part of the book, encompassing chapters three through eight, uses the process approach to writing pedagogy. The authors divide the writing process into three steps: pre-writing, writing, and post-writing. The pre-writing stage includes defining purpose, defining audience, and determining what constraints are placed upon the writing by professional requirements. The writing stage includes organizing the material into outline form and then putting it into a first draft. The post-writing stage covers the steps of reviewing, revising, editing, and using graphics effectively. The authors depart from the typical process approach by putting revision into this stage, even though they suggest that "one draft of a document is rarely enough, especially in legal writing." Helpful exercises accompany presentation of each step in the process.

One of the most common criticisms of the cognitive process approach is its failure to give audience awareness more than a minor role in planning a composition. The authors have not avoided this failing, although they have devoted more space in Chapter Three to the subject of audience than to the discussions of purpose and constraints. This lack of emphasis on audience may disappoint some instructors.

In Chapter Four, "Getting Organized," the authors recommend the use of an outline to organize the writing of complex legal documents. Some composition theorists consider this counter-productive, arguing that it constrains the writing process unnecessarily and results in the sort of wooden writing that lawyers are reviled for, while others argue that the use of an outline is important in the planning process. Regardless of which view is correct, I want to point out that writers of complex legal documents will need to have careful notes so as not to omit anything important. Sometimes the smallest detail can be significant in determining the effectiveness of legal documents, as many a lawyer has learned to his or her sorrow. In any event, young lawyers are likely to find that they will frequently be using a word-processing library of documents. Perhaps the technique of drafting from
forms, often dictated by the economics of modern legal practice, could be addressed in a second edition of the book.

The authors discuss matters of style and effectiveness in the two central chapters of the book. In Chapter Five, they take up the separate issue of readability, and they offer thirteen guidelines for improving readability. They provide nothing new here, but this chapter has many valuable exercises for budding legal writers who wish to gain control of their Faulknerian tendencies.

In Chapter Six, the authors analyze the techniques of effective writing. They emphasize logical argument and provide a brief section (only one page) on assessing audience. Teachers using this textbook may want to balance the emphasis on logic with a more extensive treatment of rhetorical persuasion.

In Chapter Seven, the authors plunge into editing and revising without explaining in the section entitled "Writing as a Process" that student writers should be revising in the writing stage and that efficient editing may often take place only after many sections of the document have been rewritten several times, with large blocks of text added or deleted. As it is, the student may have the dangerous misconception that writing complex legal documents often consists of putting together a single draft from an outline or notes, rather than expecting to make several revisions. Chapter Eight concludes the central part of the book with helpful advice on such technical matters as headings, spacing, underlining, type styles, and type size.

The last part of the book prepares the student for writing a legal memorandum and an appellate brief, using the skills developed in the preceding chapters. Chapter Nine describes the purpose and structure of legal memoranda and provides two examples. However, no exercises are offered, so teachers using this text will have to provide their own. The final chapter explains the purpose and outlines the structure of an appellate brief; while it contains two examples, it, too, provides no exercises. The authors might have included simplified exemplary cases and directed the student to prepare short memoranda from them as a way of preparing the student to write a full-length memorandum or brief.

Finally, the appendix contains an "Overview of English Sentence Structure." As a lawyer, I find it difficult to approve the inclusion of this basic material on grammatical usage, even in an appendix. I assume that law students—having completed an undergraduate education and having survived a selection process for admission to law school based on LSAT scores and other indicators (however ideologically skewed) of reasoning ability and capacity for effective language use—do not require a basic review of grammar. In any case, there are many handbooks available for students who do require instruction in the basics.

The authors do not seem to have observed the composing process as it occurs in law firms and law departments of corporations. Inclusion of materials developed in this way would have broadened the appeal of the book.
Even so, I think it will find an appreciative audience, despite its many shortcomings, because of its counter-balancing strengths.


Reviewed by Nell Ann Pickett, Hinds Community College

I recommend Anne Eisenberg's _Writing Well for the Technical Professions_. This excellent introduction to technical writing by Polytechnic University's Eisenberg is concerned with the "imperatives of research, audience analysis, organization, language, and visual impact." Visual impact is the initial, overriding impression of this textbook. As I leafed through the book, I liked its feel, its trim size, its use of a second color (for section divisions and chapter beginnings, for accent in headings, for rules in boxes of examples of writing), its incorporation of virtually every kind of print visuals, its uncrowded pages with lots of white space—the book's total layout and design.

Students will like this book. It shows while it tells. The many examples of professional writing are laced with visuals. The examples often are annotated, and many of them are given in three versions to reflect the writer's development in thought, organization, and attention to visual impact. The summaries at the ends of chapters highlight main points, and the numerous and varied exercises include many case situations.

The six parts cover all the areas expected in an introductory technical writing text: audience analysis, organizational patterns, library research, correspondence, reports, and oral presentations. The text also contains a brief (twenty-two-page) handbook that addresses typical problems in grammatical usage and punctuation.

But there is more: four of the twenty chapters distinguish this book from all others: "A Legacy of Good Writing," "Language," "Visual Display," and "Direct Observation: Using a Notebook." Eisenberg discusses the qualities of technical writing from the ancients to the present, demonstrates how language distinction is crucial to good technical writing, shows how design and illustration help make technical text readable and interesting, and explains how keeping a notebook "hones the eye, develops the writer's descriptive powers, and adds to the writer's skill at ordering evidence and drawing inferences."