

training, and research services in information design and plain language.¹

4. I am also the Chair of the Center for Plain Language (“CPL”), a national advocacy organization championing clear communication. The CPL seeks to help government agencies and businesses write clearly for their intended audiences.²

5. I oversee CPL’s 2019 Annual Federal Report Card, which evaluates how well federal agencies comply with the Plain Writing Act of 2010.³ The Plain Writing Act requires federal agencies to use plain writing in every document the agencies issue or substantially revise.⁴ The Report Card uses five standardized criteria to evaluate U.S. federal agency communications and advise agencies on how to improve those communications. These criteria, described in detail below, evaluate whether a document is written, structured, and designed to enable readers to understand the communication, find the information they need within the document, and use the needed information for its intended purpose.⁵

6. I have expertise in understanding how vulnerable people, including low-income people, use and understand print and online documents. For example, on behalf of the United States Department of Agriculture, I have conducted plain language assessments of documents used in the Supplemental Nutrition Assistance Program (“SNAP”). Based on the results of those assessments, I developed model SNAP application forms for use online and model notices for states to send to SNAP recipients. The SNAP program provides nutrition benefits to supplement the food budgets of low-income families.

¹ See Kleinmann. (n.d.). What We Do. https://www.kleimann.com/what-we-do-1_

² See Center for Plain Language. (n.d.). History. <https://centerforplainlanguage.org/about/history/>

³ See Center for Plain Language. (n.d.). Federal Report Card. <https://centerforplainlanguage.org/reports/federal-report-card/>

⁴ Plain Writing Act of 2010. (2010). <https://www.govinfo.gov/app/details/PLAW-111publ274>.

⁵ See Center for Plain Language. (n.d.). ClearMark Awards – Judging Criteria. (“ClearMark Awards”) <https://centerforplainlanguage.org/awards/clearmark/criteria/>.

7. I also directed a team that created and tested disclosures for the Consumer Financial Protection Bureau. I promoted the development of clear and easy-to-read disclosures that communicate key loan terms and risks to consumers. These disclosures are used in every mortgage transaction conducted in the United States.

8. Additionally, I have overseen plain language and information design communication projects for federal, state, and local government agencies, as well as for non-profit, educational, and private organizations. My clients have included the Internal Revenue Service, the United States Department of Health and Human Services, the United States Federal Trade Commission, and Fannie Mae and Freddie Mac.

9. I have also served as the Executive Judge for CPL's Annual ClearMark Awards, which evaluates written communications submitted by North American organizations and issues awards for submissions that are clear and effective for average readers, according to CPL criteria.⁶ In this role, I oversaw a group of 40 expert judges analyzing more than 200 pieces of information—such as letters, brochures, contracts, and manuals—to select 10 national winners.

10. In addition, I serve on the board of the International Plain Language Federation, which promotes the benefits of plain language and works to improve professional plain language practices internationally.⁷ This organization is currently creating plain language standards for the International Organization for Standardization (“ISO”). The ISO is a non-governmental international organization that brings together experts and stakeholders to develop consensus-based, market-relevant International Standards for a variety of subjects and fields.⁸

⁶ ClearMark Awards.

⁷ See International Plain Language Federation. (n.d.). Our Work. <http://www.iplfederation.org/our-work/>.

⁸ See ISO. (n.d.). Benefits of Standards: Standards in Action. <https://www.iso.org/standards-in-action.html>.

11. I also serve as an Adjunct Professor at Gonzaga University (in the Masters in Organizational Leadership and Masters in Communication Leadership programs) and the University of Oklahoma (in the Masters in Organizational Dynamics program).

B. Educational Background

12. I hold a Ph.D. in Leadership Studies and an M.A. in Organizational Leadership from Gonzaga University with an emphasis on communication and ethics. I also received a B.A. in History from Randolph-Macon Woman's College.

C. Expert Services

13. I have not testified as an expert at trial or been deposed in any case in the last four years.

14. I provided an expert declaration in Federal Trade Commission v. Adept Management, Inc., et al., Civil Action No. 1:16-cv-00720, United States District Court, District of Oregon. I was retained by the Federal Trade Commission in that matter.

II. ALLEGATIONS AND EXPERT ASSIGNMENT

15. Plaintiffs' Class Action Complaint for Declaratory and Injunctive Relief alleges that the South Carolina Department of Motor Vehicles ("DMV") suspends the driver's licenses of people reported for failure to pay traffic tickets without first providing them adequate notice of how to prevent or contest the suspension when the individual is unable to pay. *See, e.g.*, ECF No. 1 at ¶ 9.

16. Plaintiffs' counsel has asked me to evaluate the following:

- What would an average reader in South Carolina understand when reading an Official Notice of Suspension issued by the South Carolina Department of Motor Vehicles ("Official Notice"), which the DMV uses to communicate to an individual about the impending suspension of a driver's license for failure to pay

a traffic ticket under South Carolina Code Section 56-25-20 (“Section 56-25-20”)?

- What would an average reader understand about the process for preventing or contesting the suspension of a driver’s license for failure to pay a traffic ticket under Section 56-25-20 after reviewing the following information: (i) the Official Notice; (ii) South Carolina statutes relevant to a suspension for failure to pay a traffic ticket (S.C. Code §§ 56-25-20, 56-1-370); and (iii) South Carolina administrative regulations relevant to contesting actions or proposed actions of certain state agencies (the Rules of Procedure of the Administrative Law Court and the Rules of Procedure of the Office of Motor Vehicle Hearings)?

III. EXPERT COMPENSATION

17. I am being compensated at the rate of \$175 an hour. My compensation is not dependent on the results of my analysis or the outcome of this litigation.

IV. MATERIALS RELIED UPON

18. The opinions expressed in this report are based on my analysis of the following materials, which Plaintiffs’ counsel provided to me:

- The DMV’s Official Notice to Plaintiff Janice Carter, which is dated June 13, 2017.
- The related South Carolina statutes (“Related Statutes”), which are as follows:
 - Section 56-25-20, which is referenced in the Official Notice. This statute concerns “Suspension of license for failure to comply with traffic citation or summons for litter violation; notification of licensing authority in compact jurisdiction.” S.C. Code § 56-25-20.
 - Section 56-1-370. This statute concerns “Review of cancellation, suspension, or revocation of license.” S.C. Code § 56-1-370.
- The related South Carolina administrative regulations, which are as follows:

- Rules of Procedure for the Administrative Law Court (the “ALC Rules”).
- Rules of Procedure for the Office of Motor Vehicle Hearings (the “OMVH Rules”).

19. I reserve the right to submit a supplement to this Declaration in the event additional information is provided to me.

V. SUMMARY OF CONCLUSIONS

20. Based on my analyses of the documents listed above, using diagnostic measures and research from the fields of plain language, information design, and literacy, which I describe in greater detail in the methodology section below, I have come to the following conclusions:

A. Conclusions Regarding Average Reader Understanding of the Official Notice

21. The average reader would have difficulty fully understanding, using, and responding to the information presented in the Official Notice for the following reasons:

- a. The Official Notice does not use a clear and organized structure to help a reader find or use information effectively. Likewise, the Official Notice does not use visual elements or information design to help the reader navigate the document more easily.
- b. The Official Notice uses complex words and sentences, which make the document difficult for the average reader to fully understand.
- c. The words, sentences, and paragraphs in the Official Notice do not work together in a coherent way to build meaning without interference or gaps. Without such coherence, a reader cannot fully understand the meaning of the document or what the reader can and should do in response to it.

22. The average reader would interpret the Official Notice to convey that their only option is to pay the full amount of traffic fines and fees reported as unpaid. The Official Notice fails to provide information about a process by which a reader may prevent or contest a driver’s license suspension for

failure to pay a traffic ticket based on inability to pay those fines and fees. Thus, after reading the Official Notice, an average reader would not believe that there are any options available to prevent or contest a driver's license suspension for failure to pay a traffic ticket based on inability to pay.

B. Conclusions Regarding Average Reader Understanding of the Related Statutes, the ALC Rules, and the OMVH Rules

23. Following receipt of the Official Notice, an average reader would find it difficult—if not impossible—to find the Related Statutes, the ALC Rules, and the OMVH Rules in order to better understand their options for responding to the Official Notice.

- a. The Official Notice only references one statute, Section 56-25-20. The other Related Statutes, the ALC Rules, and the OMVH Rules are not referenced in the Official Notice or in Section 56-25-20. An average reader therefore would likely not know how or where to find these legal texts.

24. An average reader who is able surmount multiple hurdles to locate and read the Related Statutes, the ALC Rules, and the OMVH Rules would still have difficulty fully understanding their options for responding to the Official Notice for the following reasons:

- a. The Related Statutes, the ALC Rules, and the OMVH Rules are each written using esoteric terms, long sentences, and complex phrases that only a reader with highly specialized legal knowledge and above-average literacy would understand.
- b. The Related Statutes, the ALC Rules, and the OMVH Rules each provide some relevant information about a reader's options, but they are not referenced, connected to one another, or summarized in a way that would help the average reader build comprehension or make appropriate inferences about their options for how to respond to the Official Notice.

C. Conclusion Regarding Average Reader Understanding of Available Options Regarding a Driver’s License Suspension for Failure to Pay a Traffic Ticket Based on the Official Notice, Related Statutes, ALC Rules, and OMVH Rules

25. The Official Notice, the Related Statutes, the ALC Rules, and the OMVH Rules present “compounded difficulty” for a reader, which prevents the average reader from discerning any process by which to request a hearing to prevent or contest a driver’s license suspension for failure to pay a traffic ticket based on inability to pay.

- a. Compounded difficulty occurs when a reader must understand the meaning of several documents together, but each document alone presents difficulty for the reader. The difficulties with each individual document then compound when the documents are read together.

26. To develop a full understanding of the Official Notice and whether there is an option to request a hearing, a reader would need to understand and integrate four or more related complex legal documents. This requires the reader to first understand each document independently and then make appropriate inferences, synthesize information, and draw correct conclusions about a legal situation and potential next steps. As discussed in greater detail below, these documents are individually very difficult to understand and the compounded difficulty of reading and understanding all the documents together requires skills beyond all but those with the highest levels of literacy.

VI. METHODOLOGY

27. A written document communicates effectively when it is aimed at the ability of the average reader, uses plain language, and has a design that ensures overall readability.

28. In order to determine the effectiveness of the Official Notice, the Related Statutes, the ALC Rules, and the OMVH Rules, I assessed (i) the ability level of the average reader in South

Carolina, (ii) the plain-language level of the documents, and (iii) the overall readability of the documents.

A. Methodology to Assess the Ability Level of the Reader

29. In order to assess the ability level of the average South Carolina reader, I used the literacy proficiency levels of the Program for the International Assessment of Adult Competencies (“PIAAC”). I also used the results of the PIAAC survey of adult literacy and numeracy in the United States.

30. PIAAC is an international program that conducts assessments and analyses of adult skills in several areas.⁹ In 2011–12, PIAAC conducted a major survey in more than forty countries (including the United States) that measured adult literacy and numeracy. The results of the United States survey are considered “the most current indicator of the [United States’] progress in adult skills” in the measured areas.¹⁰

31. PIAAC defines reader literacy as “the ability to understand, evaluate, use and engage with written texts to participate in society, to achieve one’s goals, and to develop one’s knowledge and potential.”¹¹ PIAAC identifies six literacy proficiency levels for adults: Below Level 1, Level 1, Level 2, Level 3, Level 4, and Level 5.¹² Each level corresponds with particular tasks that a reader falling in that range would be able to perform, as follows:

- a. Below Level 1: Readers are able to read brief texts on familiar topics to locate a single piece of specific information. There is seldom any competing information.

⁹ OECD. (n.d.). About PIAAC. <http://www.oecd.org/skills/piaac/>.

¹⁰ National Center for Education Statistics. (n.d.). National Assessment of Adult Literacy (NAAL). <https://nces.ed.gov/naal/>.

¹¹ National Center for Education Statistics (2019). *Adult Literacy in the United States*. <https://nces.ed.gov/datapoints/2019179.asp>.

¹² National Center For Education Statistics (n.d.). *PIAAC Proficiency Levels for Literacy* <https://nces.ed.gov/surveys/piaac/litproficiencylevel.asp>.

Only basic vocabulary knowledge is required. Readers are not required to understand the structure of sentences or paragraphs.

- b. Level 1: Readers are able to read relatively short continuous, non-continuous, or mixed texts to locate a single piece of information that is identical to information given in a question or directive. Little, if any, competing information is present. Some tasks may require simple cycling through more than one piece of information.
- c. Level 2: Readers are able to make matches between text and information, which may require paraphrasing or low-level inferences. Some competing pieces of information may be present. Readers may need to cycle through or integrate two or more pieces of information based on criteria, compare and contrast information, or reason about information.
- d. Level 3: Readers are able to identify, interpret, and evaluate one or more pieces of information, often drawing varying levels of inference. Readers must construct meaning across larger chunks of text, perform multi-step operations to formulate responses, and disregard irrelevant or inappropriate content to answer accurately. Competing information is often present, but it is not more prominent than correct information.
- e. Level 4: Readers are able to perform multi-step operations to integrate, interpret, and synthesize information from complex or lengthy texts. Complex inferences and application of background knowledge may be needed. Readers can identify and understand one or more specific, non-central ideas in the text to interpret and evaluate the claims the document is making related to the evidence presented. Competing information is present and can be more prominent than correct information.

- f. Level 5: Readers are able to search for and integrate information across multiple, dense texts; synthesize similar and contrasting ideas or points of view; and evaluate evidence-based arguments. Readers recognize subtle rhetorical cues and make high-level inferences or use specialized background knowledge. Competing information is present and more prominent than correct information.

32. The PIAAC survey found that 52.5% of adults in the U.S. function at a literacy proficiency of Level 2 or below. The full set of findings is as follows: (a) Unable to answer any questions—4%; (b) Below Level 1—4.1%; (c) Level 1—12.9%; (d) Level 2—31.6%; (e) Level 3—34.6%; (f) Level 4—11.9%; and (f) Level 5—0.9%.¹³

33. Although the PIAAC survey did not measure adult literacy proficiency at the state level, we can extrapolate, based on nationwide results, that roughly 53% of South Carolina adults function at a literacy proficiency of Level 2 or below. These readers have difficulty making inferences, paraphrasing, and synthesizing information about complex, unfamiliar topics.

34. Based on the results of the PIAAC survey, we can further extrapolate that roughly 22% of South Carolina adult residents function at Level 1 or below and thus struggle to read and understand written text. In fact, this extrapolation is consistent with a 2003 study of literacy in South Carolina, which found that 15% of residents lacked the most basic prose literacy—that is, the ability to read and understand text-based documents.¹⁴

35. Extrapolating from the results of PIAAC survey, only 12.8% of South Carolina adult

¹³ National Center for Education Statistics. (2016). *Skills of U.S. Unemployed, Young, and Older Adults in Sharper Focus: Results From the Program for the International Assessment of Adult Competencies (PIAAC) 2012/2014* (p. B-4). <https://nces.ed.gov/pubs2016/2016039rev.pdf>.

¹⁴ National Center for Education Statistics. (n.d.). *State & County Estimates of Low Literacy*. <https://nces.ed.gov/naal/estimates/StateEstimates.aspx>.

readers possess the advanced skills required to synthesize information across multiple dense texts and make highly specialized inferences from that information.

B. Methodology to Assess the Plain-Language Level of a Document

36. To assess the plain-language level of the Official Notice, the Related Statutes, the ALC Rules, and the OMVH Rules, I applied the CPL's five criteria for plain language. These criteria evaluate whether a document is written, structured, and designed to enable the average reader to understand the written communication, find the information they need within that communication, and use that information for its intended purpose.¹⁵

37. The Center for Plain Language defines the concept of plain language as follows: "A communication is in plain language if its wording, structure, and design are so clear that the intended readers can readily find what they need, understand it, and use it."¹⁶ This definition assumes the purpose of information is to help people make decisions, meet requirements, and accomplish tasks in their daily lives. A clear document provides information in a manner that helps the intended reader function appropriately in a specific situation.

38. The CPL criteria reflect the requirements of the federal Plain Writing Act of 2010, which requires federal agencies to write clearly to provide civilian access to government information and services.¹⁷ The criteria were designed to match federal guidelines, which every federal agency has used extensively to ensure compliance with the law since 2011.¹⁸ The CPL criteria are accepted as an effective standard for assessing plain language by all international plain language organizations,

¹⁵ClearMark Awards.

¹⁶ Center for Plain Language. (n.d.). About. <https://centerforplainlanguage.org/about/>.

¹⁷ Plain Writing Act of 2010.

¹⁸ Federal Plain Language Guidelines. (2011). Plain Language Action and Information Network (PLAIN). <https://plainlanguage.gov/media/FederalPLGuidelines.pdf>.

including Clarity International, the International Legal Plain Language Association, and Plain Language International (“PLAIN”), the largest international plain language advocacy organization.¹⁹ The CPL criteria also form the basis of the ISO standards for plain language that are currently in development. These standards will govern the use of plain language internationally. They are also used by other organizations concerned with clarity in communication, such as the Partnership for Public Service, which releases its own grades on federal communications.²⁰

39. The CPL’s five plain-language criteria are defined as follows:
- a. Criterion 1: Understanding Reader Needs. This criterion assesses how clearly a document answers the key questions of a reader who is attempting to complete a functional task. Readers approach a document by asking questions and actively looking for answers to these questions.²¹ When approaching government notices, such as the Official Notice, readers often ask specific questions like: Why am I getting this? What will happen next? What can or should I do next? By when do I have to act? If the notice fails to answer these questions, readers become easily confused and often give up.²² This criterion also assesses coherence, which is defined as the connection between ideas that help the reader discern a larger, global

¹⁹ Harris, L., Kleimann, S., and Mowat, C. (2010). Setting Plain Language Standards (p.16). https://clarity.wildapricot.org/Resources/Documents/64_032111_04_final.pdf; Plain Language Association International.(n.d.). What is Plain Language?, <https://plainlanguagenetwork.org/plain-language/what-is-plain-language/>.

²⁰ Partnership for Public Service. (2019). Government of the People. <https://ourpublicservice.org/wp-content/uploads/2019/10/Government-for-the-People.pdf>.

²¹ Redish, J.C. (1992). Understanding readers. In C.N. Barnum and S. Carliner (Eds.). *Techniques for technical communicators*. New York: MacMillan. See also Flower, L, Hayes, J.S. and Swarts, H. (1983). Revising functional documents: the scenario principle. In Paul V. Anderson (Ed.), *New essays in technical and scientific communication: research, theory, practice*. Fanningdale, NY: Baywood.

²² Redish, J.C. (1989). Reading to learn to do. *IEEE Transactions on Professional Communication*, 32(4), (pp. 289–293).

understanding of the document.²³ Coherence is present when words, sentences, and paragraphs work together to create meaning for the reader.²⁴ Sentences are comprised of propositions or small units of a predicate and at least one argument or noun phrase.²⁵ For text to be coherent, there must be *propositional overlap* among sentences, meaning the units work together across sentences to build meaning without interference or gaps. There must also be *propositional connections* throughout the text, meaning the sentences and paragraphs work together to build a cohesive narrative that the reader can comprehend.²⁶ When there are gaps in information or intervening unrelated concepts, the text is not cohesive. In cases where there are gaps in information or intervening unrelated concepts, the reader has to substitute missing information with existing knowledge or identify and disregard extraneous points. Average readers have particular issues with text that contains information gaps or unrelated concepts because they lack the background necessary to fill gaps or navigate unconnected points.²⁷

- b. Criterion 2: Style and Voice. This criterion assesses whether the document uses words and sentences a typical reader would understand. Readers need language that

²³ Graesser, A.C., McNamara, D.S., & Louwerse, M.M. (2003). What readers need to learn to process coherence relations in narrative and expository text. In A.Sweet, C. Snow (Eds.) *Rethinking reading comprehension* (pp.82–83). New York, NY: The Guilford Press.

²⁴ Graesser, A.C., McNamara, D.S., & Louwerse, M.M. (2003).

²⁵ Graesser, A.C., Gernsbacher, M.A. & Goldman. Cognition. (1997). In T.A. van Dijk & T.A. van Dijk (Eds.). *Discourse as Structure and process: Discourse Studies, A multidisciplinary introduction, Volume 1* (p. 90). Thousand Oaks, CA: Sage.

²⁶ Kintsch, W. & Van Dijk, T. (1978). Toward a model of text comprehension and production. *Psychological Review*, 85(5), (pp. 363–394).

²⁷ Kitchin R.M. (1994). Cognitive maps: What are they and why study them? *Journal of Environmental Psychology* 14(1), (pp. 1–19).

reflects their own language patterns, not the technical language of experts.

Additionally, readers need a foundation of known and understood words to build meaning. This criterion looks for the use of informational anchors—restatements of complex words or definitions—that allow readers to more easily add new, unfamiliar terms to their foundation.²⁸ Finally, this criterion assesses sentence length. Long sentences are more difficult for all readers to understand.²⁹ This is because long sentences require embedding, the process by which one clause is fixed within in another.³⁰ The longer a sentence is, the stronger a reader’s short-term memory must be. And as a sentence grows in length, the recall and comprehension of the reader rapidly declines.³¹ Long sentences are particularly difficult for people with low literacy.³² Common plain language guidelines suggest keeping sentences to 20 or fewer words, which is within reach of the average reader.³³ Other longstanding guidelines consider sentences of 29 or more words to be “Very Difficult.”³⁴

- c. Criterion 3: Structure and Content. This criterion assesses whether the document has a clear and organized structure to help readers effectively use the information provided. Typical readers rely on the structure of a document—heading and

²⁸ Kitchin R.M. (1994).

²⁹ E. B. Coleman. (1962). Improving comprehensibility by shortening sentences. *Journal of Applied Psychology*, 48 (p. 131).

³⁰ D. Schwartz, J. Sparkman, and J. Deese. (1970). The process of understanding and judgment of comprehensibility. *Journal of Verbal Learning and Verbal Behavior*, 9, (pp. 87–93).

³¹ Larkin, W. and Burns, D. (1977). Sentence comprehension and memory for embedded structure. *Memory and cognition*, 5 (1), (pp. 17–22).

³² Doak, L.C., and Doak. C.C. (2010). Writing for readers with a wide range of reading skills. *American Medical Writers Association Journal*, 25(4), (pp. 149–154).

³³ Cutts, M. (2013). Oxford Guide to Plain English (p. 2). Oxford, UK: Oxford University Press.

³⁴ Flesch, R. (1948). A New Readability Yardstick. *Journal of Applied Psychology*, Vol. 32. No. 3, (pp. 221-233).

paragraph arrangements—to quickly capture key information and decide whether they are willing and able to expend more energy to understand it.³⁵

- d. Criterion 4: Information Design and Navigation. This criterion assesses the degree to which the document’s layout and presentation make the page easy for readers to find important information. In general, when readers think a document looks hard to read, they assume it is hard to read. In other words, reader motivation improves with good information design. When information design is poor, readers assume the content is difficult to understand. This, in turn, reduces their overall motivation to continue to read to understand. Indeed, readers will often stop reading when content becomes difficult to understand.³⁶
- e. Criterion 5: Pictures, Graphics, and Charts. This criterion assesses the extent to which the document includes easy-to-use visuals to enhance and support the meaning of the content. Research has shown that most individuals think visually and that visuals can improve learning and retention.³⁷

C. Methodology to Assess Document Readability

40. To assess the overall readability of the Official Notice, Related Statutes, the ALC Rules and the OMVH Rules, I applied two readability formulas that evaluate the linguistic and syntactic complexity of text.

³⁵ Liu, Z. (2005). Reading Behavior in the Digital Environment: Changes in Reading Behavior Over the Past Ten Years. *Journal of Documentation*, (p. 61).

³⁶ Song, H., & Schwarz. N. (2008). Processing fluency affects effort prediction and motivation. *Psychological Science*, 19, (pp. 986–988).

³⁷ Reed, Stephen K. (2010). *Thinking Visually*. New York: Psychology Press.

41. The first readability formula, the Simple Measure of Gobbledygook (“SMOG”) focuses on the length of words and sentences and matches reading levels with grade levels.³⁸ For example, a score of 5 represents the reading level of an individual who has completed the 5th grade.

42. The second readability formula, the New Dale-Chall Readability Formula (“New Dale-Chall”), looks at sentence and word length but also assesses word familiarity using a graded list to identify potentially difficult words that further inform grade level.³⁹

43. It should be noted that neither SMOG nor New Dale-Chall provides a holistic assessment of whether a written communication is understandable to the average reader because neither looks at other elements affecting reader comprehension, such as organization, navigational aids, or jargon.⁴⁰

VII. ANALYSIS

A. Average Reader Understanding of the Official Notice

i. CPL Five Criteria

a. Criterion 1: Understanding Reader Needs.

44. The Official Notice fails to sufficiently answer the key questions of recipients: Why am I getting this notice? What will happen next? What can or should I do next? By when do I have to act? This is because the Official Notice violates coherence in numerous ways. It fails to provide consistent, instructive information that would allow the average reader to understand the situation, the implications of the situation, and the full range of potential next steps.

³⁸ McLaughlin, G.H. (1969). SMOG Grading – A New Readability Formula. *Journal of Reading*, 22 (pp. 639-646).

³⁹ Chall, J. S., & Dale, E. (1995). *Readability revisited: The new Dale–Chall readability formula*. Cambridge, UK: Brookline Books.

⁴⁰ Mead, C.D. and Smith, C.F. (1991). Readability formulas: Cautions and criteria. *Patient Education and Counseling*, 17(2) (pp. 153-158).

45. The Official Notice fails to adequately explain the actual action taking place, which is that the DMV is suspending a driver's license. It begins as follows: "You may not drive commercial or non-commercial vehicles." The Official Notice only uses the term "SUSPENSION" further down in the document under a section titled "COMPLIANCE." Also, it only uses the term "license" even further down, toward the end of the document under a section titled "REINSTATEMENT FEE." A more explanatory statement—such as "your license will be suspended on X date and you may not drive after that time"—would create propositional connections with other terms and dates within the document that an average reader would better understand.

46. The Official Notice fails to explain the phrase "BEGINNING DATE" in a way that an average reader would understand within the larger context of the document. Because the first statement is "You may not drive," the average reader would assume that means right now, not at some future point identified later in the document as the "BEGINNING DATE." The Official Notice also fails to provide coherence because it does not offer the reader a direct, explicit connection between two important concepts—the directive to not drive and the beginning date of suspension. Most importantly, the average reader would not know that they must act before "12:01 AM 07/03/2017" because this information is not explicitly connected to information provided later in the document about actions that must be taken. Here, the propositional connection between ideas is not clear.

47. The Official Notice's use of different words to identify the same person, thing, concept, or idea adds confusion.⁴¹ For readers to fully understand the information provided to them, the terms used should be consistent. Here, the suspension date is referred to initially as the "BEGINNING DATE" and later as "the suspension date." An average reader might not understand that these terms mean exactly the same thing.

⁴¹ Storrer, A. (2002). Coherence in text and hypertext. *Document Design*, 3(2) (pp. 156-168).

48. The Official Notice’s inclusion of the sentence beginning with “ENDING DATE” in the line immediately after “BEGINNING DATE” would also confuse the average reader. The sentence reads in full: “ENDING DATE: When you receive notice from the Department that this action has been cleared.” The average reader would not know what this statement means when reading it because the Official Notice does not provide explanatory information about possible steps for the reader to take until two paragraphs later. An average reader might stop reading after the line beginning with “ENDING DATE,” assuming there is no action to be taken and that the reader will simply receive a notice from the Department when the action is “cleared.”

49. The Official Notice fails to clearly describe next steps for the reader. The initial task-oriented sentence is hidden under the heading “SPECIAL DRIVING PRIVILEGES”: “You may not drive until you have done the following” It then continues under an intervening heading, “COMPLIANCE.” The intervening heading complicates the directive sentence and violates propositional coherence in the process. The word “COMPLIANCE” itself is formal and unusual and would not necessarily be understood by the average reader to mean “actions you need to take to be able to drive again” or “actions you need to take to get your driver’s license back.” An average reader would most likely be unable to make the inferences necessary to comprehend this text.

50. The language of the Official Notice is inconsistent due to shifting verb tense. The document shifts from the imperative⁴² (“[You] Pay the fine”) to future simple with a different subject/actor (“The court will give you”) to modal⁴³ (“You must bring this compliance”) to infinitive⁴⁴ with a passive clause (“IT IS YOUR RESPONSIBILITY TO GIVE THE DEPARTMENT PROOF”).

⁴² This term refers to a verb that gives instruction or advice, and expresses a command, an order, a direction, or a request.

⁴³ This term refers to a verb that expresses possibility, ability, permission, or obligation.

⁴⁴ This term refers to a verb preceded by the word “to be” that is not conjugated.

Here, propositional overlap impairs the clarity of communication. To connect propositions, one must also connect verb tense and voice.

51. The final section of the Official Notice, “REINSTATEMENT FEE,” would be confusing to an average reader due to its conditional nature. The reinstatement fee is triggered by, and thus only imposed after, the suspension date. This information is critical because an individual may avoid a reinstatement fee by acting quickly enough—that is, before the suspension date. Nowhere does the Official Notice emphasize the urgency of acting so that the individual can avoid the reinstatement fee.

52. The Official Notice fails to provide a full set of explicit next steps to the reader. It only provides one full answer to the reader—an instruction to make full payment by either visiting a court or by sending the payment by mail. It also refers to a \$100 payment to the DMV, but does not make clear what the relationship between the two payments is.

53. The list of steps to be taken in the Official Notice under “COMPLIANCE” and “REINSTATEMENT FEE” is helpful, but could be greatly enhanced by an actual numbered list that shows a procedural sequence with important dates and locations. Currently, the Official Notice contains the following information regarding steps to be taken, in the following order: a court address, the “BEGINNING DATE” (which is supposed to delineate the start date of a driver’s license suspension initiated by the DMV), the “ENDING DATE,” “COMPLIANCE” (which references actions to be taken with the court and the DMV), “REINSTATEMENT FEE,” and information about returning a license to the DMV. Presenting numbered steps in the natural order that a reader would do them helps the reader use the information effectively.⁴⁵ The Official Notice would address these issues and more clearly and effectively communicate potential next steps as follows:

⁴⁵ Alred, G.T., Brusaw, C.T. & Oliu, W.E. (2009). *Handbook of Technical Writing, 9th Ed.* Boston, MA: Bedford/St. Marten’s Press; Stygall, G. Legal writing: complexity, Complex documents/average and

Step 1. Pay your traffic fine and fees at the Yemassee Municipal Court *before* your Suspension Date, which is 07/03/17.

Step 2. When you pay your traffic fine to the Court, you must also get a compliance notice from the Court.

Step 3. **If you complete Steps 1 and 2 before your suspension date (07/03/2017),** take the compliance notice to your local DMV or mail it to: DRIVER RECORDS, POST OFFICE BOX 1498, BLYTHEWOOD, SC 29016-0028. No further action is necessary.

If you do not complete Steps 1 and 2 before your suspension date, then review Step 4, below.

Step 4: Because you did not complete Steps 1 and 2 before your suspension date (07/03/2017), your driver’s license will be suspended by the DMV and you must do the following to have it reinstated:

- pay the traffic fine and fees to the court and get a notice of compliance;
- bring the notice of compliance to the DMV; and
- pay a \$100 reinstatement fee to the DMV for this suspension and pay any other reinstatement fees for any other suspensions on your driver’s license.

Important: To avoid having your driver’s license suspended, you must complete Steps 1 through 3—pay your fines and fees to the court before the Suspension Date and promptly provide the compliance notice to the DMV. If your driver’s license is suspended, you must complete Steps 1 through 4—pay your fines and fees, provide the compliance notice to the DMV, and pay any reinstatement fees owed to get your driver’s license back.

not-so-average readers. In M. Coultard & A. James (Eds.) *The Routledge Handbook of Forensic Linguistics* (pp. 62–63). New York, NY: Routledge.

54. For all the above stated reasons, the average reader would not understand the instructions in the Official Notice with respect to when to pay a traffic fine so as to avoid driver's license suspension, and would likely become confused about what to do if a suspension has already been imposed. The average reader would not understand what steps to take if they are unable to pay the full amount of traffic fines and fees. There is no information presented about options to contest a driver's license suspension for failure to pay a traffic ticket, and an average reader would not believe they had an option to contest a driver's license suspension based on the information in the Official Notice.

b. Criterion 2: Style and Voice.

55. The Official Notice frequently uses technical words or phrases such as "COMPLIANCE," "SPECIAL DRIVING PRIVILEGES," "commercial or non-commercial motor vehicles," and "REINSTATEMENT." These terms are not typical for the average reader.⁴⁶ The Official Notice also contains multiple nominalizations, which are abstract nouns made out of verbs, including "suspension" (from "suspend"), "reinstatement" (from "reinstate"), and "failure" (from "fail"). Nominalizations make it more difficult for the average reader to assess the action taking place.⁴⁷

c. Criterion 3: Structure and Content.

56. The Official Notice fails to reflect a strong structure or organizing principles, which makes it difficult for the average reader to follow. It does not use a logical flow (introducing new information in ways that attach to previous given and defined information); does not use consistent headings to reflect this flow; and does not give clear answer to the questions an average reader is likely to have, such as: Why am I getting this notice? What do I need to do next? What can or should I do next? By when do I need to act? Due to this lack of structure and organizing principles, the average

⁴⁶ Kimble, J. (2006). *Lifting the fog of legalese* (pp. 163–174). Durham, NC: Carolina Academic Press.

⁴⁷ Williams, Joseph M. (2003). *Style: Ten Lessons in Clarity and Grace* (p. 30). New York: Longman.

reader would have difficulty following the flow of the information and, specifically, the actions they can or must take.

d. Criterion 4: Information Design and Navigation.

57. The Official Notice uses very few helpful design elements. Design elements, such as bullet lists, numbered lists, or effective headings, provide visual signals to readers and help them work through complex information. The Official Notice also has several instances of all capital letters (“all caps”), which are cognitively more difficult to process. People use the shape of a word (its ascenders and descenders) to quickly cognitively understand it. All caps make each word the exact same shape—a rectangle—which forces a reader have to go letter by letter, slowing reading speed by up to 20 percent.⁴⁸

e. Criterion 5: Pictures, Charts, and Graphics.

58. The Official Notice uses no pictures, charts, or graphics to visually support the average reader in understanding the content.

ii. PIAAC Literacy Proficiency Level for Understanding the Notice

59. PIAAC measures individual literacy and, therefore, is not a document assessment tool. But one can analyze a document using PIAAC criteria to assess the level of skill a reader would need to understand it.

60. I assessed the Official Notice using PIAAC level tasks and concluded that a reader would likely need to be at a Level 3 to fully understand the Official Notice. The Official Notice requires a reader to interpret one or more pieces of information. The reader must also interpret the concept of “BEGINNING DATE” and “END DATE” in relation to driver’s license suspension. The reader must also understand the concept of “COMPLIANCE” as well as how to attain “COMPLIANCE.” Further,

⁴⁸ Schriver, K. (1997). *Dynamics in document design* (p. 275). New York, NY: John Wiley and Sons.

the reader must understand the concept of “REINSTATEMENT” as well as when a “REINSTATEMENT FEE” would be effective. Readers must perform multi-step operations to formulate responses including how and when to comply, what is required to comply, what happens if one does not comply, and when and how to give up one’s driver’s license to the DMV. The information is not presented in a linear fashion.

61. As mentioned earlier, based on nationwide literacy results, roughly 53% of South Carolina adults function at a literacy proficiency of Level 2 or below, which is below the Level 3 literacy proficiency required to fully understand the Official Notice.

iii. Readability Assessment of the Official Notice

62. I assessed the Official Notice using two readability formulas applied to the documents through software programs used for this purpose. Based on the combined result of both readability formulas, the Official Notice scores at approximately an eighth-grade reading level. The New Dale-Chall assessment also found that 11% of the words in the Official Notice would be unfamiliar to an average reader.

Document	SMOG	New Dale-Chall
Official Notice	Grade level: Level 8.2	Grade level: 7–8

iv. Conclusions Regarding Average Reader Understanding of the Official Notice

63. The Official Notice does poorly when assessed under the CPL criteria. An average reader would not fully understand the Official Notice because it is not written and designed in a way that would enable the average reader to comprehend the document. It uses esoteric words that average readers most likely do not understand and lacks a clear and organized structure that would help readers find information effectively. It also fails to employ visual elements or information design to help the reader navigate the information more easily. Finally, the document requires a reader to perform multi-

step operations requiring at least Level 3 literacy proficiency to be understood. For these reasons, which are explained in greater detail above, the Official Notice is difficult for the average reader to understand even though it tests at an eighth-grade reading level under the SMOG and New Dale-Chall readability formulas.

64. Because the Official Notice is not written, organized, and designed to enable average reader comprehension of the document, an average reader would have difficulty fully understanding why they are receiving the notice, what will happen next, what they can or should do next and when they need to act.

65. Because the Official Notice does not provide information about what a reader can do if they do not have the ability to pay the traffic ticket and because the document uses directive language instructing full payment, an average reader would likely conclude that there is nothing they can do about the suspension of their driver's license if they cannot pay their traffic fines and fees.

B. Average Reader Understanding of the Related Statutes, the Administrative Law Court Rules, and the Office of Motor Vehicles Hearing Rules

i. CPL 5 Criteria

a. Criterion 1: Understanding Reader Needs.

66. The first issue is that, after reading the Official Notice, the average reader would not understand the need to locate the Related Statutes, the OMVH Rules, and the ALC Rules in order to get information necessary to determine whether there is a way to contest a driver's license suspension for failure to pay a traffic ticket. The second and related issue is that the average reader would also have difficulty in locating these sources of information, even if they understood the need to do additional research.

67. The Official Notice contains a reference to Section 56-25-20, which governs driver's license suspensions for failure to pay traffic tickets. Section 56-25-20, in turn, references other statutes,

but these statutes do not describe a process to contest a driver's license suspension based on inability to pay a traffic fine or fee. Section 56-1-370 appears to be a relevant statute for contesting a DMV driver's license suspension, but it is not referenced in either the Official Notice or in Section 56-25-20. Section 56-1-370, in turn, references other documents, including the South Carolina Administrative Law Court Rules and the South Carolina Administrative Procedure Act. Neither of the Related Statutes mentions the Office of Motor Vehicle Hearings Rules, which appear to be the relevant set of rules for requesting a hearing to contest the DMV's decision to suspend a driver's license. In short, the Official Notice, the Related Statutes, the OMVH Rules, and the ALC Rules all fail to provide readers with guidance on the need to do further research and how to actually find applicable legal information regarding the process for contesting the suspension of their driver's licenses based on inability to pay a traffic fine or fee. The absence of information in the Official Notice about a process to contest a driver's license suspension and the directive language of the Official Notice ("Pay the fine for the ticket to the court.") would lead the average reader to believe that there is no such process.

68. The Related Statutes, the ALC Rules, and the OMVH Rules each provide some relevant information, but they are not explicitly connected to one another in order to help the average reader build comprehension or make appropriate inferences. For example, Section 56-1-370 says that the individual has 10 days in which to contest the decision, but the Official Notice does not identify this timeframe. Additionally, Section 56-1-370 does not explicitly mention the OMVH Rules, but it does mention the ALC Rules. The OMVH Rules discuss the ability of individuals to request a hearing to contest a determination by the DMV, but neither the OMVH Rules nor this option are provided in the Official Notice.

69. Though the Official Notice references Section 56-25-20, it is my experience that average readers generally do not consult legal documents identified in text. Average readers are often distracted

by such references because they lack access to the texts referenced or do not know how to find them.⁴⁹ Based on my professional experience, a better approach would be to both reference and summarize key information from the Related Statutes, the OMVH Rules, and the ALC Rules in the Official Notice so that readers would have more comprehensive information and likely a better understanding of potential next steps they can take.

b. Criterion 2: Style and Voice.

70. The Related Statutes use complex legal jargon that hinders and suppresses the ability of an average reader to comprehend the text. Examples of such complex terms and phrases include: “licensee,” “revocation,” “rescind,” “compact jurisdiction,” “summons,” “satisfactory evidence,” “good cause appearing therefor,” and “adjudication.” These are terms and phrases that an average reader—indeed, anyone who is not a legal professional—would fail to understand.⁵⁰

71. Each of the Related Statutes use extremely long sentences. For example, Section 56-25-20, begins with a 125-word sentence. A highly motivated reader who managed to find this statute would still have a great deal of difficulty reading and understanding the sentence in order to meet the conditions of the law. A review of sentence length of the statutes is as follows:

Document	Average Sentence Length
S.C. Code § 56-25-20	70.25 words
S.C. Code § 56-1-370	65.6 words

72. The OMVH Rules and the ALC Rules also include complex sentences and words that average readers do not understand. The section of the OMVH Rules on filing a contested case with the Office of Motor Vehicle Hearings includes complex terms such as “docket,” “determination,” “contested

⁴⁹ Stygall, G. (2010). Legal writing: complexity, Complex documents/average and not-so-average readers. In M. Coultard & A. James (Eds.) *The Routledge Handbook of Forensic Linguistics* (p. 63). New York, NY: Routledge.

⁵⁰ Tiersma, P. (1999). *Legal language* (p. 204–206). Chicago, IL: University of Chicago Press.

case,” and “hearing officer.” The section of the ALC Rules on filing a contested case also includes complex concepts that guide filing a request for a hearing, such as receiving “actual or constructive notice of the agency’s determination,” attaining “proof of service,” and abiding by “issuance of the order or determination.”

c. Criterion 3: Structure and Content.

73. The Related Statutes do not have any internal organizational structure. The information is presented as undifferentiated paragraphs with no headings or other navigational aids to help an average reader find relevant information or understand the potential procedural steps necessary to address their legal issue.

74. The OMVH Rules and the ALC Rules offer better internal organization in the form of a table of contents and an outline-style structure within the text. Both of these would be useful to an average reader.

d. Criteria 4: Information Design and Navigation.

75. The layout and presentation of the Related Statutes are not designed in a way that helps find important information. The statutes look difficult because they present dense paragraphs of undifferentiated text. Reader motivation is, again, impacted by good information design. When that design is missing, readers assume the content is difficult to understand, and they are less motivated to engage the content to gain inference or synthesis.⁵¹

76. Both the OMVH Rules and the ALC Rules have slightly better design with headings and numbered lists that could help an average reader navigate information more effectively. But these

⁵¹ Song, H., and Schwarz, N. (2008). Processing fluency affects effort prediction and motivation. *Psychological Science*, 19, (pp. 986–988).

elements do not allow the average reader to overcome difficult sentence structures and unfamiliar terms within the Rules.

e. Criteria 5: Pictures, Graphics and Charts.

77. The Related Statutes, the OMVH Rules, and the ALC Rules do not use pictures, charts, or graphics to visually support the average reader in understanding complex content.

ii. PIAAC Literacy Proficiency Assessment

78. Assuming a reader is highly motivated to find and read the Related Statutes, the OMVH Rules, and the ALC Rules in an effort to determine their options concerning a pending driver's license suspension, they would then have to integrate information across multiple dense texts, perform multi-step operations, make complex inferences, and synthesize information based on those texts. These tasks require readers to function at PIAAC Level 5 literacy proficiency. Tasks requiring Level 5 literacy proficiency require searching for and integrating multiple dense texts, performing multi-step operations, and integrating and interpreting the information using specialized knowledge.⁵² As noted earlier, less than 1% of adults in the United States possess Level 5 literacy proficiency, and 53% of the U.S. population functions at a Level 2 or below. The tasks necessary to understand the Related Statutes, the ALC Rules, and the OMVH Rules would be nearly impossible for an average Level 2 reader, and 53% of the South Carolina adult population is at or below that level of literacy proficiency.

iii. Readability Assessment

79. I assessed the Related Statutes using two readability formulas, which show that both of the Related Statutes require reading levels that are outside the reach of the average South Carolina

⁵² Organisation for Economic Co-operation and Development (OECD). (n.d.). *Key Facts about the Survey of Adult Skills*. <https://www.oecd.org/skills/piaac/Key%20facts%20about%20the%20Survey%20of%20Adult%20Skills.pdf>.

reader. In fact, these documents likely could only be used by people with specialized, graduate-level legal knowledge, as set forth below. The New Dale-Chall formula found that 28% of the words in Section 56-25-20 would be unfamiliar to the average reader, and 31% of the words in Section 56-1-370 would be unfamiliar to the average reader.

Document	SMOG	New Dale-Chall
S.C. Code § 56-25-20	Grade level: Above Level 18 College Graduate	Grade level: 16 and above College Graduate
S.C. Code § 56-1-370	Grade level: Above Level 18 College Graduate	Grade level: 16 and above College Graduate

80. I also assessed relevant sections of the ALC Rules and OMVH Rules using two readability formulas which show that both have difficult reading levels, as set forth below. The New Dale-Chall formula also revealed that in both sets of rules, 24% of the words would be unfamiliar to the average reader.

Document	SMOG	New Dale-Chall
ALC Rules (Section II. Contested Cases)	Grade level: 10.8 11 th Grade	Grade level: 11 - 12
OMVH Rules (Sections 4 – 8 regarding Contested Cases)	Grade level: 8.6 9 th Grade	Grade level: 11 - 12

iv. Conclusions Regarding Average Reader Understanding of the Related Statutes, ALC Rules, and OMVH Rules

81. The Related Statutes do very poorly when assessed under the CPL criteria and the SMOG and New Dale-Chall readability tests. An average reader would not understand these documents because they are not written and designed in a way that would enable the average reader to comprehend the document. They use complex and esoteric words that average readers most likely do not understand

and are presented as dense paragraphs of undifferentiated text. They lack structure that would help readers find information effectively. They also fail to employ visual elements or information design to help the reader navigate the information more easily. Additionally, the documents require a reader to integrate multiple dense texts, perform multi-step operations, and integrate and interpret information using specialized knowledge. These tasks require Level 5 literacy proficiency and at least a college graduate reading level. For these reasons, which are explained in greater detail above, the Related Statutes are almost impossible for an average reader to understand.

82. Much like the Related Statutes, the ALC Rules and the OMVH Rules do very poorly when assessed under the CPL criteria and the SMOG and New Dale-Chall readability tests. An average reader would not fully understand these documents because they use complex and esoteric terms and concepts that average readers most likely do not understand. They also fail to employ visual elements to help the reader navigate the information more easily. The documents also require a reader to integrate multiple dense texts, perform multi-step operations, and integrate and interpret information using specialized knowledge. These tasks require Level 5 literacy proficiency. The words and sentences in these documents require around an eleventh or twelfth grade reading level. For these reasons, which are explained in greater detail above, the ALC Rules and OMVH Rules are extremely difficult for an average reader to understand even though they provide some navigational tools in the form of a table of contents.

v. Conclusions Regarding Average Reader Understanding of Available Options Regarding a Driver's License Suspension for Failure to Pay a Traffic Ticket Based on the Official Notice, Relevant Statutes, OMVH Rules, and ALC Rules

83. It is highly unlikely that an average reader will be able to find the Related Statutes, the OMVH Rules, or the ALC Rules because those materials are not referenced or summarized in the Official Notice. Thus, the average reader is simply unlikely to read all the materials necessary to

develop a more comprehensive understanding of whether an administrative hearing is even a possible action to avoid or contest a suspension if they are unable to pay traffic fines and fees.

84. Even if an average reader found these documents, the reader would not be able to fully understand them because they are not written or presented in plain language, use long sentences, present unfamiliar legal words and jargon, and employ only basic information design to help readers navigate them. The Relevant Statutes, OMVH Rules, and ALC Rules all do very poorly when assessed under the CPL criteria and the SMOG and New-Dale Chall readability formulas, as explained in detail above.

85. The Official Notice, the Related Statutes, the OMVH Rules, and the ALC Rules also present compounded difficulty for readers. To use these documents together, a reader would need to draw appropriate conclusions and synthesize information from each document individually and then draw appropriate conclusions and synthesize information across all the documents about the reader's legal situation. These skills are beyond all but those with the highest levels of literacy. Only individuals with PIAAC Level 5 literacy proficiency (less than 1% of the United States population) have the skills necessary to understand these documents. The average South Carolina reader functions at a Level 2 or below and would not have the literacy skills to understand how to appropriately perform the multi-step operations needed to fully address their situation.

86. For all the reasons stated above, I conclude the following: (a) that after reading the Official Notice, (i) an average reader would not understand that there are any options to contest a driver's license suspension for failure to pay traffic fines and fees when they do not have the ability to pay the traffic fines and fees, and (ii) an average reader would not understand whether to search for, and how to locate information about, a process to contest a driver's license suspension based on inability to pay a traffic ticket; and (b) even if an average reader surmounted all the obstacles to locating the Related Statutes, the OMVH Rules and the ALC Rules, and read these documents, they would still be unable to

understand how to access and navigate a process for contesting a driver's license suspension based on inability to pay a traffic ticket.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct and that this Declaration was executed in Scottsdale, Arizona on November 25, 2019.


Barbra Kingsley, Ph.D.

APPENDIX A: CURRENT CURRICULUM VITAE**Barbra K. Kingsley, Ph.D.**1112 E. 19th Street • Tulsa, OK 74120 • bkingsley@kleimann.com • 918-939-8551**Education**

Doctor of Philosophy, Leadership Studies, Gonzaga University	June, 2011
Master of Arts, Organizational Leadership, Gonzaga University	May, 2006
Bachelor of Arts, History, Randolph-Macon Woman's College	May, 1995

Professional Experience

Chair, Center for Plain Language	2019 – present
Board Member, International Plain Language Federation	2019 – present
Co-Founder & Partner, Kleimann Communication Group, Inc.	1998 – present
Senior Research Assistant, American Institutes for Research	1995 – 1998

Summary

Barbra Kingsley, Ph.D., a Partner with Kleimann Communication Group, has over 24 years of experience managing high-impact communication projects to create clear, usable information. She is an information design and plain language expert with a deep understanding of how individuals, particularly vulnerable populations, use print and online documents. She has led projects for multiple high-profile clients to develop information that people of all demographics can understand. For example, she has led projects to create and test the TILA-RESPA Integrated Disclosure Rule disclosures including English and Spanish versions of the Loan Estimate and Closing Disclosure for the Consumer Financial Protection Bureau; to develop new Supplemental Nutrition Assistance Program notices and forms for the United States Department of Agriculture; and to develop new HIPAA Notice of Privacy Practices in English and Spanish for the United States Department of Health and Human Services. Each of these projects have produced forms and notices that are used daily by millions of consumers and industry partners. She also works nationally and internationally to promote the use of plain language. Nationally, as Chair of the Center for Plain Language, she oversees both the Annual Federal Report Card, which rates federal agency compliance with the Plain Writing Act of 2010, and the Annual ClearMark Awards, which celebrates the best use of plain language in written communications in North America. Internationally, she is working to create global International Standardization Organization plain language standards as a Board Member of the International Plain Language Federation.

Selected Organizational Consulting Experience

- **Rewriting and Testing Letters for WoodmenLife Insurance (2017-present).** Dr. Kingsley is leading a team to rewrite over 80 letters that go to WoodmenLife customers. These letters cover legal and procedural issues that customers face when buying and managing their life insurance, such as payments due, payments overdue, insurance cancellation, etc. By emphasizing literacy and plain language, as well as using iterative testing, the team is ensuring that these letters are understandable and usable to a wide range of customers. A key rewritten WoodmenLife letter was a finalist for the 2018 Center for Plain Language ClearMark Award.
- **Developing the Multifamily Lending Contract and Guide for Fannie Mae (2017-present).** Dr. Kingsley facilitated a team of attorneys to develop a new contract and guide that governs all relationships between lenders and Fannie Mae regarding Multifamily loans – representing over \$25 billion in financing per year. For this project, she conducted collaborative team-based goal setting for content; interviewed a range of major U.S. lenders on expectations and preferences for content; worked closely with internal and external counsel to revise and reorganize content; and redeveloped content to be at the forefront of financial plain language.
- **Developing the Uniform Residential Loan Application (URLA) for Fannie Mae and Freddie Mac, (2015-present).** Dr. Kingsley served as project manager for a major revision of the application used for the company’s home loans in the United States. Dr. Kingsley led a team of cross-disciplinary staff as well as a team of sub-contractors to reconceptualize the application design and content in plain language. She moderated English testing with borrowers and with lenders across five rounds of qualitative testing and presented changes based on testing and other industry input after each round. The new URLA is used in every residential loan application process in the U.S.
- **Developing a notice of privacy practices for Office of the National Coordinator for Health Information Technology (ONC), a division of the United States Department of Health and Human Services (HHS) (2014).** Dr. Kingsley facilitated a team of civil rights attorneys to develop a new HIPAA notice of privacy practices that can be used by all health care entities in the United States. As part of this effort, she interviewed high-profile stakeholder experts regarding content and industry expectations and led an iterative qualitative testing approach to gain consumer insight into new designs. The new notice of privacy practices communicates more effectively to consumers in plain

language while still conforming to legal and regulatory requirements. These notices have been downloaded over 500,000 times.

- **Developing model online Supplemental Nutrition Assistance Program (SNAP) application forms and consumer notices (2013-2015).** Dr. Kingsley led this project to create model plain language SNAP application forms as well as key notices that States send to SNAP applicants and recipients. Dr. Kingsley developed an analytical process for evaluating 52 state online state application and 53 state notices; directed the team as it analyzed, coded, and reported results; and developed interactive webinars for over 120 regional office and state workers on the development of new applications and notices.
- **Developing integrated disclosures for the Consumer Financial Protection Bureau (CFPB) (2011- 2013).** Dr. Kingsley managed this high-profile project to develop integrated mortgage disclosures as stipulated by the Dodd-Frank Act. Working with a cross-functional team, her team created and tested disclosures that communicate key loan terms and risks to consumers in a clear, easy-to-read format. Her work focused on presenting key numerical data about loan terms in ways that typical homebuyers (of all demographics) could understand. These disclosures are now used in every U.S. mortgage transaction and have won a ClearMark award for clarity.
- **Developing a Curriculum for Notice Writers for the Internal Revenue Service (2005–2008).** For the IRS, Dr. Kingsley served as Project Director on a range of efforts to improve notice clarity for taxpayers including the development of a comprehensive curriculum for notice writers within the Wage and Investment Division. This curriculum was designed to train staff members in information design and build skills in creating clear and usable information. Dr. Kingsley oversaw the development of nine courses which sequentially built information design and plain language skills. Additionally, to support the sustainability of change, she developed an electronic Document Assessment Tool (DAT) © that has enhanced the ability of IRS writers to objectively measure the base quality of current and revised notices.

Teaching Experience

Adjunct Professor, University of Oklahoma

November 2016 to present

Master's in Organizational Dynamics Program

ODYN 5343. Organizational Communication. This month-long intensive class focuses on theories and systems of communication in organizational settings. It discusses high-level communication strategies as well as one-on-one and written communication.

Adjunct Professor, Gonzaga University

January 2011 to present

Master's in Organizational Leadership, School of Professional Studies

- *Communication Ethics*. This eight-week class covers common organizational and communication issues through different normative lenses and presents stakeholder theory as a means of addressing issues and bridging competing ethical viewpoints.
- *Research Methods*. This eight-week class covers development of research questions, writing a literature review, creating a statement of project purpose and significance, and selecting an appropriate research methodology.
- *Leadership Seminar*. This sixteen-week class guides students in preparing a portfolio and implementing a capstone project that demonstrates their gained program competencies.

Publications and Presentations

Invited presentations and speaking engagements (2008 to present)

Kingsley, B. (2019). *It's not a claim, it's a customer experience*. Presented at the Assurant Annual Stakeholder Meeting.

Kingsley, B. (2018). *Communicating in disasters: The importance of connection*. Presented for HOPENow Alliance, Plano, TX.

Kingsley, B. (2017). *Communicating with older adults: It's not what you say, it's how you say it*. Presented for the National Mortgage Loan Association Annual Conference.

Kingsley, B. (2017). *Forms: A chance for dialogue*. Presented for The Lab, the District of Columbia Government. Washington, DC.

Kingsley, B. (2017). *Understanding reverse mortgage users*. Presented for HOPE Now Alliance, Washington, DC.

Kingsley, B. (2015). *Plain language and consumer understanding*. Presented to the Executive Letter Committee, HOPENow Alliance, Dallas, TX.

Kingsley, B. (2014). *Bringing law, policy, and clarity together for (a) change*. Presented at the Forum on Plain English, University of Houston-Downtown.

Other presentations and publications (2008 to present)

Kingsley, B. (2019). *This is an Emergency...plain language in emergency communication*. Presented at the Plain Language International Conference. Oslo, Norway.

Kingsley, B. (2019). *Through the Eyes of the User: Eye Tracking in Usability Testing*. Presented at the Plain Language International Conference. Oslo, Norway.

Kingsley, B. (2017). (Editor). *The Clarity Journal*, 75.

- Kingsley, B. and Kleimann, K. (2017). *What's "The Deal"?: Designing mortgage disclosures that consumers can use and understand*. The Journal Clarity, 75.
- Kingsley, B., Coleman, C., and Jones, T. (2016). *Creating effective notices*. Presented at APHSA conference for SNAP and TANF directors, Orlando, FL.
- Kingsley, B. (2011). *Development and Psychometric Analysis of an instrument to measure moral imagination*. (Doctoral Dissertation).
- Kingsley, B. & Popa A.B. (2011). *Expanding ethical perspectives by cultivating moral imagination*. Business & Leadership Symposium, Fort Hays State University, Kansas.
- Kingsley, B. & Popa. A.B. (2011). *Teaching ethics: Expanding perspectives by cultivating moral imagination*. 7th Annual Business and Leadership Symposium.
- Kingsley, B. (2010). *Measuring moral imagination in an organizational setting*. Society of Business Ethics Annual Conference, Highlighted Emerging Scholars Research.
- Kingsley, B. & Popa, A. B. (2008). Developing moral imagination in leadership students. *Journal of Leadership Education, Special Issue Popular Culture in Leadership*, 7(2), 24-31.
- Kingsley, B. & Popa. A.B. (2008). *Using a grounded theory approach to explore moral imagination with leadership students*. Association of Leadership Educators Annual Conference.

Honors and Awards

- Center for Plain Language, Grand ClearMark Award (2012), “Loan Estimate and Closing Disclosure,” developed with the Consumer Financial Protection Bureau
- Society for Business Ethics, Founder’s Award (2010)
- Society for Technical Communication, Award of Excellence, “Information Design Expert Guide” (2008-2009)
- National Partnership for Reinventing Government “No Gobbledygook” Award for Plain Language Consulting, with the Veterans Benefits Administration (1998)
- Phi Beta Kappa (1995)
- Randolph Macon Woman’s College, Departmental Honors (1995)

Professional memberships and service to the discipline

- Chair, Center for Plain Language (2019-2021)
- Board Member, Center for Plain Language (2018-present)
- Board Member, International Plain Language Federation (2019-present)
- Reviewer, *Connexions in international professional communication & design* (I.P.C.D.), interactive eBook series (2018-present)
- Guest Editor, The Clarity Journal, special issue on legal disclosures (2017)

- Lead Judge, Center for Plain Language ClearMark Awards (2016 to 2018)
- Expert Judge, New Zealand WriteMark Awards (2016, 2018)