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# Problematic Words and Phrases

Although many of the following are not rigid rules and the drafter must always consider the context of the use of a word or phrase, the following provides suggestions as to use of problematic words or phrases when drafting in the Utah Code.

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A   B   C   D   E   F   G   H   I   J-K-L   M  
N   O   P   Q   R   S   T   U-V   W   X-Y-Z

## A

above	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
above-mentioned	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
absolutely null and void	<i>do not use</i> , use "void"
acknowledge	<i>do not use</i> , use "admit" or "recognize"
accomplish	<i>do not use</i> , use "do" or "perform"
accorded	<i>do not use</i> , use "given"
acknowledge and confess	<i>do not use</i> , use either word as appropriate
acquire	<i>do not use</i> , use "buy" or "obtain"
act and deed	<i>do not use</i> , use either word as appropriate
adequate v. sufficient v. enough	"adequate" refers to if something is suitable in a particular circumstance; "sufficient" refers to an amount of material; "enough" modifies both count and mass nouns
adequate number of	<i>do not use</i> , use "enough" or "sufficient"
adjacent v. contiguous	"adjacent" means lying near; "contiguous" means touching
adjust, compromise, and settle	<i>do not use</i> , use the appropriate word
admit of	<i>do not use</i> , use "allow"
advice v. advise	"advice" (noun) means opinion or recommendation; "advise" (verb) means to counsel
advise and consent	<i>do not use</i> , use "consent"
affect v. effect	"affect" (verb) means to influence or produce an effect on; "affect" (noun) means an observable emotion; "effect" (noun) means result or accomplishment; "effect" (verb) means to cause to happen
affective v. effective	"effective" is broader and means producing an intended or expected result; "affective" means relating to, influencing, or expressing a feeling or emotion
afforded	<i>do not use</i> , use "given"
aforementioned	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
aforesaid	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
after having (plus past participle)	<i>do not use</i> , use "after (plus present participle)," e.g., "after completing the test"
agree and covenant	<i>do not use</i> , use "agree"
all and every	<i>do not use</i> , use the appropriate article
all of the	<i>do not use</i> , use "all the"
already	<i>do not use</i> , state a specific date
also v. and	"and" is always preferred; neither term should be used to begin a sentence or used with the other
alter or amend	<i>do not use</i>
alter or change	<i>do not use</i>

among v. between

"among" is used to show the relationship of more than two objects or persons or when no close relationship exists it can mean to be in the class or company of; "between" is used to show the relationship of two objects or person, if a close relationship exists, or as a comparison; for both terms use "and" as the connective; and never follow the term by "each" or "every"

an adequate number of  
and v. also

*do not use*, use "enough"

*see* "also v. and"

an excessive number of  
annual and set aside

*do not use*, use "to many"

*do not use*

any and all

*do not use*, use "a" or "an," unless the meaning requires the use of "any"

and/or

*do not use*

approximately

*do not use*, use "about"

as a consequence of

*do not use*, use "because of"

ascertain

*do not use*, use "determine"

assign, transfer, and set over

*do not use*

a sufficient number of

*do not use*, use "enough"

at that point

*do not use*, use "then"

at the time

*do not use*, use "when"

at such time as

*do not use*, use "when"

authorize and direct

*do not use*, use either word as appropriate

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## B

based on

*do not use* with adverbial force, *e.g.*, "shall adjust rates annually, based on the cost-of-living," or as a dangling participle, *e.g.*, "based on the report, the commissioner shall"

be and the same hereby is  
before mentioned

*do not use*, use "is"

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

below

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

be of help to

*do not use*, use "help"

between v. among

*see* "among v. between"

bind and obligate

*do not use*, use either word as appropriate

build, erect, or construct

*do not use*, use "build"

by and through

*do not use*, use "by"

by and under

*do not use*, use either word as appropriate

by and unless

*do not use*, use either word as appropriate

by and with

*do not use*, use either word as appropriate

by means of

*do not use*, use "by"

by reason of

*do not use*, use "because of"

by virtue of

*do not use*, use "by" or "under"

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## C

capital

used in all means except that of a building

capitol

a building or edifice

cancel, annual, and set aside	<i>do not use</i> , use the appropriate word
category	<i>do not use</i> , use "kind," "class," or "group"
cause it to be done	<i>do not use</i> , use "have done"
cease	<i>do not use</i> , use "stop"
censor v. censure	"censor" (noun) means a person that inspects with the power to suppress; "censor" (verb) means to subject to censorship; "censure" means to condemn or to find fault
commence	<i>do not use</i> , use "begin" or "start"
complete (verb)	<i>do not use</i> , use "finish"
conceal	<i>do not use</i> , use "hide"
confess and acknowledge	<i>do not use</i> , use either word as appropriate
consequence	<i>do not use</i> , use "result"
constitute and appoint	<i>do not use</i> , use "appoint"
contiguous v. adjacent	<i>see</i> "adjacent v. contiguous"
convey, transfer, and set over	<i>do not use</i> , use an appropriate word
costs, charges, and expenses	<i>do not use</i> , use an appropriate word
covenant and agree	<i>do not use</i> , use "agree"
current	<i>do not use</i> , state a specific date

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## D

deem	<i>do not use</i> , use "consider"
deemed to be	<i>do not use</i> , unless a fiction is intended
definite v. definitive	"definite" means to be clear to have distinct limits; "definitive" means decisive, conclusive, final and apparently exhaustive
disburse v. dispense v. disperse	"disburse" means to pay out or to expend; "dispense" means to distribute in parts or to administer; "disperse" means to scatter or break up
disinterested v. uninterested	"disinterested" means free from selfish motive, impartial, or unbiased; "uninterested" means indifference or lack of interest
documents, instruments, and writings	<i>do not use</i> , use an appropriate word
does not operate to	<i>do not use</i> , use "does not"
donate	<i>do not use</i> , use "give"
due and owing	<i>do not use</i> , use either word as appropriate
due to the fact that	<i>do not use</i> , use "because"
duly	<i>do not use</i>
duplicate	<i>do not use</i> , use "copy"
during such time as	<i>do not use</i> , use "while"
during the course of	<i>do not use</i> , use "during"
during the time that	<i>do not use</i> , use "while"

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## E

each and all	<i>do not use</i> , use "each"
each and every	<i>do not use</i> , use "each"
effect v. affect	<i>see</i> "affect v. effect"
effective v. affective	<i>see</i> "affective v. effective"
effectuate	<i>do not use</i> , use "carry out" or "cause"

either . . . or	<i>do not use to coordinate more than two words, phrases, or clauses, use to indicate one of two</i>
employ (meaning “use”)	<i>do not use, use "use"</i>
endeavor (verb)	<i>do not use, use "try"</i>
enough	<i>see "adequate v. sufficient v. enough"</i>
enter into an agreement with	<i>do not use, use "to agree with"</i>
enter into a contract with	<i>do not use, use "contract with"</i>
entirely and completely	<i>do not use, use either word as appropriate</i>
equable v. equitable	"equable" means uniform or unchanging; "equitable" means just, right, or fair
every	<i>do not use, use "a" or "an," unless the meaning requires "any" or "each"</i>
evidence, documentary or otherwise	<i>do not use, use "evidence"</i>
evidencing or relating to	<i>do not use, use "relating to"</i>
evince	<i>do not use, use "show"</i>
examine witnesses and takes testimony	<i>do not use, use "take testimony"</i>
excessive number of	<i>do not use, use "to many"</i>
expend	<i>do not use, use "spend"</i>
expiration	<i>do not use, use "end"</i>

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## F

fail, refuse, or neglect	<i>do not use, use "fail"</i>
fair and equitable	<i>do not use, use either word as appropriate</i>
fair and reasonable	<i>do not use, use either word as appropriate</i>
false and fraudulent	<i>do not use, use either word as appropriate</i>
final and conclusive	<i>do not use, use "final"</i>
fit and proper	<i>do not use, use either word as appropriate</i>
finalize	<i>do not use, use "complete"</i>
following	<i>do not use to refer to a Utah Code section or subsection, instead state the specific code reference</i>
for and during the period	<i>do not use, use "for" or "during"</i>
for and in consideration of	<i>do not use, use "for"</i>
for and on behalf of	<i>do not use, use "for"</i>
force and effect	<i>do not use, use either word as appropriate</i>
foregoing	<i>do not use to refer to a Utah Code section or subsection, instead state the specific code reference</i>
for the duration of	<i>do not use, use "during"</i>
for the purpose of	<i>do not use, use "to"</i>
for the reason that	<i>do not use, use "because"</i>
forthwith	<i>do not use, use "immediately"</i>
fraud and deceit	<i>do not use, use either word as appropriate</i>
free and clear	<i>do not use, use either word as appropriate</i>
free and unfettered	<i>do not use, use either word as appropriate</i>
frequent	<i>do not use, use "often"</i>
from and after	<i>do not use, use "after"</i>
from the point of view of	<i>do not use, use "for"</i>
full and complete	<i>do not use, use "complete"</i>
full force and effect	<i>do not use, use "effect"</i>

furnish  
furnish and supply  
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*do not use*, use "give"  
*do not use*, use "give" or "supply"

## G

garnish v. garnishee

in general "garnish" means to decorate or embellish; "garnishee" (verb) means to attach money or salary; however, *Black's Law Dictionary* uses "garnish" and "garnishee" (verb) interchangeably to mean to subject to garnishment or to attach, and "garnishee" (noun) as the person that is indebted to

give and grant  
give consideration to  
give, devise, and bequeath  
give recognition to  
good and sufficient  
guarantee v. guaranty

*do not use*, use either word as appropriate

*do not use*, use "consider"

*do not use*, use the appropriate word

*do not use*, use "recognize"

*do not use*, use "sufficient"

"guarantee" means to promise or assure that a legal act will be carried out; "guaranty" (noun) means to warrant or pledge when referring to a debt

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## H

have knowledge of  
have need of  
have the effect of  
he or she  
henceforth  
here

*do not use*, use "know"

*do not use*, use "need"

*do not use*, unless a fiction is intended

*do not use*, if a gender neutral term is not possible, use "he"

*do not use*, use "beginning \_\_\_"

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereby

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereafter  
heretofore  
herein

*do not use*, use "after \_\_\_ takes effect"

*do not use*, use "before \_\_\_ takes effect"

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereinabove

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereinafter

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereinbefore

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

hereunder

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

herewith

*do not use* to refer to a Utah Code section or subsection, instead state the specific code reference

his or her  
hold and keep

*do not use*, if a gender neutral term is not possible, use "his"

*do not use*, use either word as appropriate

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## I

if and when	<i>do not use</i> , use either word as appropriate
in a case	<i>do not use</i> , use "if"
in a case in which	<i>do not use</i> , use "when"
in a prompt manner	<i>do not use</i> , use "promptly"
in agreement with	<i>do not use</i> , use "agree"
inasmuch as	<i>do not use</i> , use "because" or "since"
in a manner similar to	<i>do not use</i> , use "like"
in association with	<i>do not use</i> , use "with"
in case of	<i>do not use</i> , use "if"
in close proximity	<i>do not use</i> , use near
in connection with	<i>do not use</i> , use "with," "about," or "concerning"
indicate	<i>do not use</i> , use "show" or "state"
in favor of	<i>do not use</i> , use "for"
initiate	<i>do not use</i> , use "begin"
in order to	<i>do not use</i> , use "to"
inquire	<i>do not use</i> , use "ask"
in receipt of	<i>do not use</i> , use "receives"
in regard to	<i>do not use</i> , use "about" or "concerning"
in relation to	<i>do not use</i> , use "about" or "concerning"
insofar	<i>do not use</i>
in spite of the fact that	<i>do not use</i> , use "although"
institute (verb)	<i>do not use</i> , use "begin" or "start"
in terms of	<i>do not use</i> , use "at," "in," "for," "by," or "with"
interrogate	<i>do not use</i> , use "question"
in the absence of	<i>do not use</i> , use "without"
in the case of	<i>do not use</i> , use "if"
in the course of	<i>do not use</i> , use "during"
in the event of	<i>do not use</i> , use "if"
in the event that	<i>do not use</i> , use "if"
in the interests of	<i>do not use</i> , use "for"
in the nature of	<i>do not use</i> , use "like"
in truth and in fact	<i>do not use</i>
indebtedness and liabilities	<i>do not use</i> , use either word as appropriate
irregardless	<i>do not use</i> , use "regardless"
is able to	<i>do not use</i> , use "can"
is a person who	<i>do not use</i> , use "a person"
is applicable	<i>do not use</i> , use "applies"
is authorized to	<i>do not use</i> , use "may"
is binding upon	<i>do not use</i> , use "binds"
is defined and shall be construed to mean	<i>do not use</i> , use "means"
is dependent on	<i>do not use</i> , use "depends on"
is directed to	<i>do not use</i> , use "shall"
is empowered to	<i>do not use</i> , use "may"
is entitled to	<i>do not use</i> , use "may"
is hereby authorized	<i>do not use</i> , use "shall"
is in attendance at	<i>do not use</i> , use "attends"

is permitted to	<i>do not use</i> , use "may"
is prohibited from	<i>do not use</i> , use "may not"
is required to	<i>do not use</i> , use "shall"
is not prohibited from	<i>do not use</i> , use "may"
is unable to	<i>do not use</i> , use "cannot"
it is directed	<i>do not use</i> , use "shall"
it is the duty to	<i>do not use</i> , use "shall"
it is lawful to	<i>do not use</i> , use "may"
it is the duty	<i>do not use</i> , use "shall"
it is unlawful to	<i>do not use</i> , use "may not"
it shall be his duty to	<i>do not use</i> , use "shall"
it shall be lawful	<i>do not use</i> , use "may"

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## J-K-L

just and reasonable	<i>do not use</i>
keep and maintain	<i>do not use</i> , use either word as appropriate
kind and character	<i>do not use</i> , use either word as appropriate
kind and nature	<i>do not use</i> , use either word as appropriate
known and described as	<i>do not use</i> , use either "known as" or "described as"
last will and testament	<i>do not use</i> , use "will"
law passed	<i>do not use</i> , use "law enacted"
locality	<i>do not use</i> , use "place"
locate	<i>do not use</i> , use "find"
loss or damage	<i>do not use</i> , use either word as appropriate

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## M

make and enter into	<i>do not use</i> , use "make"
maintenance and upkeep	<i>do not use</i> , use either word as appropriate
majority v. plurality v. minority	"majority" means more than half; "plurality" means the greatest number of votes cast when not a majority; "minority" means a number forming less than half of the whole or the controlling number of votes
make application	<i>do not use</i> , use "apply"
make an appointment of	<i>do not use</i> , use "appoint"
make payment	<i>do not use</i> , use "pay"
make provision for	<i>do not use</i> , use "provide"
may be treated as	<i>do not use</i> , unless a fiction is intended
means and includes	<i>do not use</i> , use either word as appropriate
member of a partnership	<i>do not use</i> , use "partner"
minority v. plurality v. majority	<i>see</i> "majority v. plurality v. minority"
modify	<i>do not use</i> , use "change"

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## N

necessitate	<i>do not use</i> , use "require"
negotiate (as in “ ___ a contract”)	<i>do not use</i> , use "make"
neither . . . nor	<i>do not use to coordinate more than two words, phrases, or clauses</i> , use to indicate not one of two
none whatsoever	<i>do not use</i> , use "none"
not later than	<i>do not use</i> , use "before"
now	<i>do not use</i> , state a specific date
nowise	<i>do not use</i>
null and void	<i>do not use</i> , use "void"

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## O

obligation and liability	<i>do not use</i> , use either word as appropriate
obtain	<i>do not use</i> , use "get"
occasion (verb)	<i>do not use</i> , use "cause"
of a technical nature	<i>do not use</i> , use "technical"
of and concerning	<i>do not use</i> , use either word as appropriate
on account of	<i>do not use</i> , use "because"
on and after July 1	<i>do not use</i> , use "June 30"
on the person's own application	<i>do not use</i> , use "at the person's request"
on the part of	<i>do not use</i> , use "by"
order and direct	<i>do not use</i> , use either word as appropriate
ordered, adjudged, and decreed	<i>do not use</i> , use "adjudged"
or, in the alternative	<i>do not use</i> , use "or"
over and above	<i>do not use</i> , use "exceed"

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## P

pay, satisfy, and discharge	<i>do not use</i> , use the appropriate term
peace and quiet	<i>do not use</i> , use either word as appropriate
per annum	<i>do not use</i> , use "each year"
per centum	<i>do not use</i> , use "percent"
per day	<i>do not use</i> , use "a day"
per foot	<i>do not use</i> , use "a foot"
perform and discharge	<i>do not use</i> , use either word as appropriate
period of time	<i>do not use</i> , use "period"
person or persons	<i>do not use</i> , use "person"
pleaded v. pled	<i>do not use "pled,"</i> use "pleaded" as the standard past tense and past-participial form
plurality v. majority v. minority	<i>see "majority v. plurality v. minority"</i>
possess	<i>do not use</i> , use "has"
possession, custody, and control	<i>do not use</i> , use the appropriate term
power and authority	<i>do not use</i> , use either term as appropriate
preceding	<i>do not use</i> to refer to a Utah Code section or subsection, instead state the specific code reference
prescribe v. proscribe	"prescribe" means to direct, to order, or to lay down a guide or rule;



preserve	"proscribe" means to outlaw or to condemn or forbid as harmful <i>do not use</i> , use "keep"
previous to	<i>do not use</i> , use "before"
principal v. principle	"principal" (noun) means a capital sum earning interest or used as a fund, a leading person, or a person who authorizes another to act on behalf of the person; "principal" (adjective) means most important; "principle" means basic, general or fundamental law, doctrine, or assumption
prior	<i>do not use</i> , use "earlier"
prior to	<i>do not use</i> , use "before"
procure	<i>do not use</i> , use "buy" or "obtain"
promulgate	<i>do not use</i> , use "issue" or "make,"
prosecute its business	<i>do not use</i> , use "carry on its business"
provided, that	<i>do not use</i> , use "except that"
provided, however, that	<i>do not use</i> , use "except that"
provision of	<i>do not use</i> , use "provision"
provisions of section	<i>do not use</i> , use "section"
purchase (verb)	<i>do not use</i> , use "buy"
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## R

release and discharge	<i>do not use</i> , use either term as appropriate
remainder	<i>do not use</i> , use "rest"
render (meaning "give")	<i>do not use</i> , use "give"
render (meaning "cause to be")	<i>do not use</i> , use "make"
render a decision	<i>do not use</i> , use "render"
require (meaning "need")	<i>do not use</i> , use "need"
regulation (Utah specific)	<i>do not use</i> , use "rule"
retain	<i>do not use</i> , use "keep"
rights and remedies	<i>do not use</i> , use either term as appropriate
rules and regulations	<i>do not use</i> , use "rules"
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## S

said	<i>do not use</i> , use the appropriate article, e.g., "the," "that," "these"
same	<i>do not use</i> , use the appropriate article, e.g., "the," "that," "these"
save and except	<i>do not use</i> , use "except"
shall be considered to be	<i>do not use</i>
shall be construed to mean	<i>do not use</i>
shall have the power to	<i>do not use</i> , use "may"
sole and exclusive	<i>do not use</i> , use "exclusive"
some	<i>do not use</i> , state a specific number or amount
specified (meaning "listed")	<i>do not use</i> , use "named"
submit a payment	<i>do not use</i> , use "pay"
subsequent to	<i>do not use</i> , use "after"
such	<i>do not use</i>
suffer (meaning "allow")	<i>do not use</i> , use "allow"

sufficient v. adequate v. enough  
sufficient number of  
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*see* "adequate v. sufficient v. enough"  
*do not use*, use "enough"

## T

take action  
take into consideration  
terminate  
the manner in which  
thence  
thenceforth  
the place of a person's abode  
the question as to whether  
thereafter  
thereby  
therefor  
therein  
thereof  
thereunder  
therewith  
to the effect that  
to or until  
to wit  
transfer and assign  
transmit  
transmitted through the mail  
true and correct  
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*do not use*, use "act"  
*do not use*, use "consider"  
*do not use*, use "end"  
*do not use*, use "how"  
*do not use*  
*do not use*  
*do not use*, use "a person's abode"  
*do not use*, use "whether"  
*do not use*, use "after \_\_\_\_"  
*do not use*  
*do not use*  
*do not use*  
*do not use*, use "of with"  
*do not use*  
*do not use*  
*do not use*, use "to"  
*do not use*, use "until"  
*do not use*  
*do not use*, use either word as appropriate  
*do not use*, use "send"  
*do not use*, use "mail"  
*do not use*, use "correct"

## U-V

under the provisions  
undertake and agree  
uninterested v. disinterested  
unless and until  
until such time as  
used for \_\_\_\_ purposes  
utilize (meaning "use")  
void and of no [effect/force/or value]  
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*do not use*, use "under"  
*do not use*, use either word as appropriate  
*see* "disinterested v. uninterested"  
*do not use*, use either word as appropriate  
*do not use*, use "until"  
*do not use*, use "used for \_\_\_\_"  
*do not use*, use "use"  
*do not use*, use "void"

## W

whatsoever  
whenssoever  
whereby  
wherein  
wheresoever

*do not use*  
*do not use*  
*do not use*  
*do not use*  
*do not use*

whenever	<i>do not use</i> , use "when"
whether or not	"or not" is usually unnecessary - to decide if it is needed, substitute "if" for "whether," and if the "if" results in a different meaning, "or not" is needed
who, whoever	used as the subject of a verb or a predicate pronoun, as in "who can go"
whom, whomever	used as the object of a verb or preposition, as in "whom we saw"
with a view to	<i>do not use</i> , use "to"
with reference to	<i>do not use</i> , use "about" or "concerning"
with respect to	<i>do not use</i> , use "about," "with," "on," "concerning," "for," or "in"
with the exception of	<i>do not use</i> , use "except"
with the object of	<i>do not use</i> , use "to"

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**Sources include:** Martineau and Salerno, *Legal, Legislative, and Rule Drafting in Plain English*, (2005); *The Merriam-Webster Dictionary* (2004); Haggard, *Legal Drafting in A Nutshell* (2nd ed. 2003); *The Chicago Manual of Style* (15th ed. 2003); *Black's Law Dictionary* (1999 7th ed.).