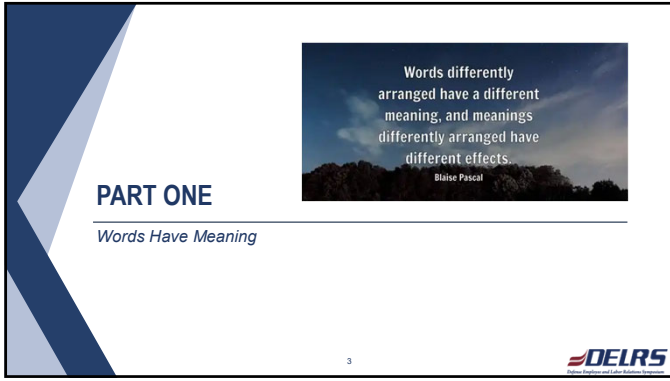




1




2



3

USE AS DIRECTED


- **“All,” “any,” and “either”**
 - Use “all” to mean the whole group
 - Use “any” to mean a limited number (or none) at the discretion of the actor
 - “Any” is an **ambiguous** word
 - Use “either” to mean that the actor must choose between two options
- **“And/or”**
 - Avoid because it creates **ambiguity**
 - Are both conditions true or is only one condition true?
- **“Consider”**
 - Can be a magic word!
- **“As directed” or “As required”**
 - Avoid these phrases because they are **vague** and have no express limitations



4

ETC., ETC., ETC.


- **“As applicable” or “As necessary”**
 - **Avoid** these phrases
 - *WHO determines whether an action is “applicable” or “necessary?” On what basis? When? How is the determination documented?*
 - Instead, state the specific requirements
- **“Etc.”**
 - It is **vague** and **ambiguous**
 - Readers may not know, or may misinterpret, the subset to which the word refers
- **“Including, but not limited to”**
 - Can be useful language or it can be a nightmare. What are the limitations?



5

SPECIFICALLY SPECIFIC

- Do not confuse **“e.g.”** with **“i.e.”**
 - **“e.g.”** means “for example”
 - Use “e.g.” when what follows is a non-exhaustive, illustrative list of items with the indication that there may be other items that are not listed
 - **“i.e.”** means “that is to say” or “specifically”
 - Use “i.e.” as an exhaustive list




6

WILL. I. AM.

- **“May” or “Might”**
 - Use “may” to imply permissive circumstances and “might” to imply uncertain future conditions
- **“Shall”**
 - Use “shall” to state a required action
- **“Should”**
 - Use “should” to state an expected course of action
 - Avoid using this word, it is **ambiguous**
- **“Will”**
 - Use “will” to refer to a future action


If the union is insisting upon “will,” be mindful. “Will/shall/must” is most likely not your friend.




7

SHOW ME THE \$\$

- Represent percentages or dollars as numerals and symbols
 - *Avoid* → “twelve percent”
 - *Better* → “12%”
- When two numbers are used together, use a written word for one of the numbers
 - *Avoid* → “\$ 8-hour days”
 - *Better* → “Five 8-hour days”




8



PART TWO


Style Matters



9

"SOMEHOW IT SEEMS TO FILL MY HEAD WITH IDEAS—ONLY I DON'T EXACTLY KNOW WHAT THEY ARE!" LEWIS CARROLL, JABBERWOCKY

- **Always** write language that is understandable to everyone and not just to those at the negotiating table
- Use mandatory understands to clarify how an ambiguous provision **MUST** be interpreted
- Even clear language can be used to prevent management from taking actions
- Avoid contradictory terms
 - What if your supervisor said, "You have the duty and the discretion to come into work tomorrow?" Which is it?




10

DON'T STRING ME ALONG!


- Write in direct, short sentences. Break up long sentences for readability and clarity. Avoid stringing long lists into sentences
- Limit each sentence to a single concept
- Use active verbs. They provide more substantive meaning in fewer words
- Use adjectives and adverbs sparingly
- Use parallel structure. Using a parallel word pattern (grammatical form and phrase length) shows that two or more ideas have the same level of importance
- Ensure that all words, phrases, and clauses linked together in a series agree with the subject and verb (ask yourself whether each would work in the sentence if you eliminated the others in the series)

11




11

PART THREE
A Different Point of View




12



12

“ONE PERSON’S CRAZINESS IS ANOTHER PERSON’S REALITY.” TIM BURTON


- When unions draft proposals:
 - They do not consider **negotiability**
 - They do not consider **FLRA decisions**
- Rather, when drafting proposals:
 - Unions consider **past CBAs** at the agency
 - Unions consider **National Union written guidance**
 - Unions want to **“FIX”** management



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SHOULDA, WOULD, COULDA

- When drafting proposals, you should:
 - 1) Study FLRA negotiability decisions (negotiable and non-negotiable)
 - 2) Focus on the key issues that dictated the FLRA decision
 - 3) Draft proposals on the subject matters of interest while applying the case law and the key issues to make the proposal negotiable
- **A skilled LR specialist can turn any non-negotiable proposal into a negotiable proposal**




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For Example!

PART FOUR


Examples: Clear as Mud



15

MUD PUDDLES


- The parties agree to **support** the provisions of the Federal Service Labor-Management Relations Statute
- Provide an **acceptable** report of bargaining unit employees
- Disciplinary actions will be taken for **“just cause”**
- Employees will be selected for overtime on a **fair and equitable** basis
- During each overtime solicitation, qualified volunteers will be selected for overtime in seniority order, with the most senior employee receiving the first offer. **Then what?**
- For unscheduled leave requests, **normally** the employee will contact his/her supervisor prior to the beginning of the start of his/her shift, **preferably 30 minutes or earlier**



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IT'S GETTING MUCKY IN HERE


- The employee will be given a Letter of Warning to observe performance for 60 days, if they fail, they will be placed on a 90-day PIP. **Pre-PIP?**
- At activities where local health services are not available, the Employer will furnish one industrial first-aid kit for every 50 employees. **What are local health services? Industrial vs. Cubicle?**
- During the probationary period required after competitive appointment, a new employee will be appraised to determine whether conduct, performance and overall fitness warrants retention in the Federal Service. **What about trial periods?**



17

TRAINING FOR A TOUGH MUDDER


- **Discipline and Adverse Actions Article**
 - "A letter of reprimand is the lowest formal disciplinary action issued..."
- **Grievance Procedure Article**
 - "All formal disciplinary actions, to include suspensions, removals and demotions, may be grieved within 10 workdays from the date of the notice of decision."
- **Can you grieve a LOR? How about a furlough letter?**



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QUICKSAND IS A REAL-WORLD PROBLEM

- **MOA Article**
 - MOAs in effect that are not in conflict with this agreement may continue
- **Duration Article**
 - All MOAs and MOUs will expire on the date this Agreement goes into effect
- **Whattttt????**



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PART FIVE


Conclusion




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MORE THAN THE SUM OF ITS PARTS

- CBAs are much more complex than their individual provisions
- Yet we have traditionally taken a reductionist approach and view CBAs term-by-term
- *However, a CBA is an organized complex system composed of many components that interact in a nontrivial, nonrandom, systematized manner*
- *The greater the interactivity of a CBA's parts, the greater the complexity*



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