



FLORIDA STATE UNIVERSITY COLLEGE OF LAW
WRITING CENTER

Prefer the Active Voice: Who Did What to Whom?¹

Prefer the active voice over the passive to clarify your meaning and animate your style. When you use active voice, you tell your reader *who did what to whom*. You follow the standard English sentence structure of subject, verb, and then object. You meet the reader’s expectation that the subject will perform the action of the sentence.²

If the subject performs the action, the sentence is active; if the subject receives the action, then the sentence is passive. Here is the difference:

Active

The court reversed the judgment.

Passive

The judgment was reversed by the court.

The active voice is easier for the reader to understand. Active voice is also more forceful than passive voice because it uses vigorous verbs. In some contexts, however, you will want to use the passive, as when the actor is immaterial or when you want to focus on something other than the actor.

Identify the passive voice.

Reliably spotting the passive might prove a challenge. Look for the word *by* or some form of the verb *to be* with a past participle. Passive voice may truncate the sentence and leave out the actor.

Passive

The contract was drafted *by* John.
Notice must *be given*.

Active

John drafted the contract.
The agency must give notice.

Active voice is easy for the reader to process.

Active voice is easy for the reader to understand because it follows the way readers normally process information.³

Active

The attorney must offer the deposition into evidence.

In this sentence, the reader can visualize the subject “attorney” performing the verb “must offer” to the object “deposition” as quickly as the words are read.

¹ By Cecelia Smith, Writing Specialist & Professor of Advanced Legal Writing, 2023.

² BRYAN A. GARNER, LEGAL WRITING IN PLAIN ENGLISH 36 (2d ed. 2013).

³ DEBORAH E. BOUCHOUX, ASPEN HANDBOOK FOR LEGAL WRITERS 113 (5th ed. 2021).

Passive

The deposition must be offered into evidence by the attorney.

Although the information in this passive voice sentence is not difficult to process, readers must read the entire sentence before they can visualize the sentence in their minds.⁴ The actor does not appear until the end of the sentence. In contrast, active voice emphasizes the actor.

Active voice is concise and persuasive.

Active voice makes your writing lively by saving words:

The marshal left the summons.
(*active voice – 5 words*)

The summons was left by the marshal.
(*passive voice – 7 words*)

Active voice is also more compelling than passive voice. Passive voice dilutes the action with a *be*-verb and a past participle. Active voice invigorates your writing with forceful verbs:

Not this:
The plaintiff was knocked to the ground and repeatedly kicked by the defendant.

But this:
The defendant knocked the plaintiff to the ground and repeatedly kicked him.

Use the active voice as part of your strategy to persuade your audience when you write your briefs and memoranda.

Use the passive voice in limited circumstances.

In some contexts, of course, you may prefer the passive voice. You may prefer to use a truncated passive construction to speak in general terms when it does not matter who performs the action. For example:

In most law schools, law is *taught* by means of the Socratic method.⁵

You may also prefer to use passive voice when it is undesirable to disclose the identity of the person or thing performing the action.⁶

The plaintiff's retirement benefits were discontinued.

Toxic fumes were ventilated out of the plant between 2:00 and 3:00 a.m.

Remember: when you consistently use active voice, you animate your style. Avoid truncated passives and reveal who is responsible for a particular action. Use the passive only when you are speaking in general terms, when you want to stress the receiver of the action and not the actor, or when you want to downplay the actor.

⁴ ANNE M. ENQUIST ET AL., *JUST WRITING* 59 (6th ed. 2022).

⁵ VEDA R. CHARROW ET AL., *CLEAR AND EFFECTIVE LEGAL WRITING* 180 (5th ed. 2013).

⁶ ENQUIST ET AL., *supra* note 4, at 60.