



MEMORANDUM

July 29, 2026

To: Members

From: Autumn Blake

Subject: Use of must versus shall in administrative rules

At the May 12, 2026, Board meeting, Member Douglas asked for clarification and information regarding the use of **must** instead of **shall**.

Both the Oregon Legislative Assembly *Form and Style Manual for Legislative Measures* and the Legislative Counsel's *Bill Drafting Manual* advise, "To impose an obligation to act, use 'shall.' To confer a right, power or privilege, use 'may.' Do not use 'shall' to grant permission or 'may' to impose a duty." However, the *Form and Style Manual* also states, "**OARs do not follow legislative form and style.**" (Emphasis in original.)

In 2003, the Oregon legislature added ORS 183.750, which requires executive department agencies and boards to use "language that is as clear and simple as possible" in administrative rules and other public communication.

The [Oregon Department of Administrative Services](#) (DAS) maintains a maximum standard for public writing, including administrative rules, of a 10th grade reading level. DAS' guidance specifically recommends using **must** instead of **shall**.

It is the practice of the Department of Consumer and Business Services (DCBS) and the Workers' Compensation Division (WCD) to incorporate plain language in all public writing, including administrative rules and orders. The DCBS Stylebook advises using **must** or will instead of **shall**. WCD's Rule Writing Guide instructs rule writers not to use **shall**: "If a person is required to do something, say the person 'must' do it. If an action is optional, say the person 'may' do it. If a person is forbidden to do something, say the person 'may not' do it."

The [Office of the Federal Register](#) created plain language guidance tailored for regulations following the 2010 Plain Writing Act. It recommends the use of **must** instead of **shall** to impose a legal obligation. It defines **shall** as “impos[ing] an obligation to act, but may be confused with prediction of future action,” whereas **must** “imposes obligation” and “indicates a necessity to act.”

The [American with Disabilities Act \(ADA\) Title II](#) mandates state government agencies to ensure communication with members of the public with disabilities “are as effective as communications with others,” supporting the use of plain language in the Workers’ Compensation Board’s publications.

Legal writing advice favors using **must** over **shall**. In *A Dictionary of Modern Legal Usage*, Bryan Garner states, “Drafting generally ought to be in the present tense, whereas ‘shall’ is commonly used as a future-tense verb. ‘Must’ carries a straightforward requirement while the use of ‘shall’ is more easily misconstrued.”