



Words of Authority

What are the “words of authority”?

- Shall
- Must
- Will
- May
- Should



Contra: Louisiana Interpretive Acts

“The word ‘shall’ is mandatory and the word ‘may’ is permissive.”

La. R.S. 1:3 Words and phrases; how construed



Words of Authority

- “Shall”: Words & Phrases
 - 82 pages
 - 38 pages more in pocket parts
 - Mandatory
 - Permissive
 - “May” distinguished
 - “May” synonymous



Words of Authority: *Shall = May*

- An agency employee with more than five years of employment with the agency **shall** be able to apply for a transfer to any agency listed below.
- **An agency employee with more than five years of employment with the agency MAY apply for a transfer to any agency listed below.**



Words of Authority: *Shall = Must*

- The hearing officer **shall** be an attorney who is licensed in this state and who has been in practice for no less than five years.
- **The hearing officer MUST be ...**



Words of Authority: *Shall = May Not*

- No person **shall** permit a minor to drive a motor vehicle on a highway unless the minor has first obtained a driver's license or permit.
- A person **MAY NOT** permit a minor to drive a motor vehicle on a highway unless the minor has first obtained a driver's license or permit.



Australian-British-Canadian (A-B-C) Perspective on Words of Authority

A-B-C Commonwealth Rule:

- Must = is required to
- May = has discretion
- May not = is not permitted
- Will = expresses (a) a future contingency; (b) the strong party's obligation in an adhesion contract; or (c) both parties' obligations in a delicate contract between equals

Adapted from Wydick, *Plain English for Lawyers*



“The Union Must and Shall Be Preserved.”