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.
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.”