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## Grouping and Subordination Help Guide and Persuade the Reader

Use bags and baskets to present your facts and arguments

By Kenneth F. Oettle

Facts and arguments are like eggs, tomatoes, marbles or anything else best conveyed in bags or baskets, not loose in your arms. You should group them. After you group them, you can compare, contrast and rank order the groups, creating additional relationships. The more relationships you create, the easier it is for the reader to grasp your meaning, and the more powerful is your point.

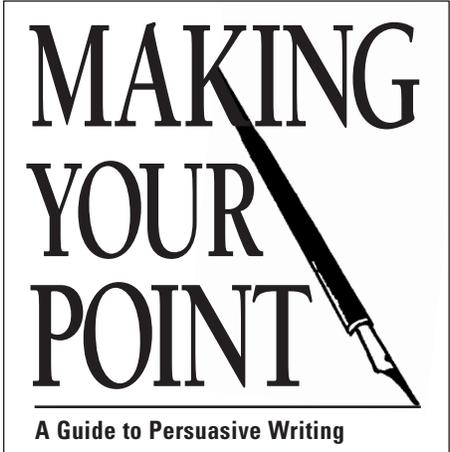
Suppose you have a point and five reasons to support it. You could list them (“X is true for five reasons”), or you could look for relationships among the reasons to see if grouping and rank ordering may help you persuade.

For example, suppose your point is that a company should not have to be licensed by state gaming regulators to provide record-keeping services to the trustee of a casino retirement plan because regulation of retirement plans under the Employee Retirement Income Security Act is already vigorous and encompasses companies that serve the plans.

You are writing a brief to the regulators, and you have five principal facts

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to support your contention: (1) ERISA imposes elaborate reporting and disclosure requirements on retirement plan trustees and others who service covered plans; (2) ERISA prohibits transactions between the trustee and the plan, thus precluding conflicts of interest; (3)



MAKING  
YOUR  
POINT

A Guide to Persuasive Writing

ERISA prohibits the employment of convicted felons by persons servicing the plan; (4) ERISA provides remedies and sanctions for violating its provisions; and (5) ERISA provides ready access to the federal courts.

These reasons aren’t grouped or rank ordered.

The five reasons actually fit into three categories: (1) reporting and disclosure; (2) standards of conduct (no conflicts or felons allowed); and (3) enforcement, including ready access to the federal courts. Grouping the five reasons into three categories might look like this:

Not only does ERISA [1] establish elaborate reporting and disclosure requirements, but it [2] establishes standards of conduct for plan fiduciaries and their agents and [3] provides appropriate remedies and sanctions with ready access to the federal courts. Among other things, ERISA prohibits transactions between the trustee and the plan, and it prohibits the employment of convicted felons by persons servicing the plan.

You have strengthened the presentation of your original list in several ways. First, you reduced five categories to three, which is easier to remember and understand. The first category is reporting and disclosure. The second is standards of conduct, consisting of the two kinds of prohibition (no conflicts, no felons), and the third is enforcement, consisting of (i) remedies and sanctions and (ii) ready access to the federal courts.

Access to the courts is necessary to enforce the remedies and sanctions. Thus, access to the courts is grouped with remedies and sanctions.

You also created a rank order in which you subordinated the first category (reporting and disclosure) to the other two categories (standards of conduct and enforcement), using a “not only ... but also” construction. Subordination makes the list easier to remember and emphasizes the most important facts.

In this case, grouping and subordination address the reader’s likely concerns. A state gaming regulator is likely to be more concerned with prohibited behavior and enforcement than with the kind of reporting and disclosure required by the Securities and Exchange

Commission. State gaming regulators may view reporting and disclosure as less rigorous than, and not an adequate substitute for, regulation that seeks to ensure good character and conduct.

To respond to this concern, you write that “not only” does ERISA provide the kind of scrutiny with which gaming regulators are less concerned (financial reporting and disclosure), but it also provides the kind of scrutiny they consider crucial (standards of conduct and enforcement). You place the elements they consider more important at the end of the sentence, in a featured position. It is featured because you lead up to it and because it concludes the thought. Through the “not only ... but also” construction, you acknowledge the lesser importance of the element in which the gaming regulators are less interested.

Finally, you conclude the paragraph with your two standards of conduct — no conflicts, no felons — thus giving shape to and emphasizing your most important thought: that ERISA seeks to ensure good character and appropriate conduct just as gaming regulators do. The “not only ... but also” construction and the transition “Among other things” sufficiently tie the examples to the second element (standards of conduct) without your having to say, “Here are two examples of standards of conduct.”

Experienced legal writers group

and rank order thoughts naturally, but beginners tend not to. Even the experienced sometimes settle for the additive

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list, for example, “The court should rule this way for three reasons (four reasons, five reasons).” Listing facts and arguments takes less work than grouping them and finding relationships among

the groups, but the extra effort usually pays off. Grouping and rank ordering help the reader understand your point and guide the reader toward the resolution you propose.

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***Puzzler***

How would you tighten and sharpen the following sentence?

The Annual Ethics Statement is circulated on an annual basis to all company personnel to remind them of the basic legal and ethical obligations attending their responsibilities.

“On an annual basis” can be dropped because of the name of the document. “Company” can be dropped because it is implicit in “personnel,” and “attending their responsibilities” can likewise be dropped as implicit. “Is circulated ... to remind” can be replaced by “reminds,” which is punchier and focuses on repetition of the message. In contrast, the phrase “is circulated ... to remind” is passive and suggests the document is passed from hand to hand or department to department.

The revised version:  
The Annual Ethics Statement reminds all personnel of their legal and ethical obligations. ■