

Drafting & Negotiating Contracts & Statutes
25th Amendment Exercise

Instructions —

1. **Categorize everything** in the following part of the U.S. Constitution. Identify every duty, discretionary authority, declaration, condition, and exception. Some people find it convenient to underline phrases and clauses in different colors of ink. People tend instinctively to use **red for duties** (obey orders), **green for discretionary authority** (green lights), and **blue for declarations** (it's the color least like red and green).
2. **Diagnose** what's wrong with the writing. Why — exactly — is it hard for you to read this provision?
3. Don't redraft. Don't submit your work. Just bring it to class and be ready to explain your reasoning.

25th Amendment, Section 4

Whenever the Vice President and a majority of . . . the principal officers of the executive departments . . . transmit to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office, the Vice President shall immediately assume the powers and duties of the office as Acting President.

Thereafter, when the President transmits to the President pro tempore of the Senate and the Speaker of the House of Representatives his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Vice President and a majority of . . . the principal officers of the executive department . . . transmit within four days to the President pro tempore of the Senate and the Speaker of the House of Representatives their written declaration that the President is unable to discharge the powers and duties of his office. . . . If the Congress, within twenty-one days after receipt of the latter written declaration, or, if Congress is not in session, within twenty-one days after Congress is required to assemble, determines by two-thirds vote of both Houses that the President is unable to discharge the powers and duties of his office, the Vice President shall continue to discharge the same as Acting President; otherwise, the President shall resume the powers and duties of his office.