

2016

## Writing Rangers

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Spring 2016

# The Disembodied Rule and the Rule Made Flesh: Propositions, Illustrations, and the Placement of Citations

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LegalWriting  
institute

# THE SECOND DRAFT

VOL 29, NO 1 SPRING 2016

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### **LWI Policy Statement on Law Faculty** *Adopted March 2015*

The Legal Writing Institute is committed to a policy of full citizenship for all law faculty. No justification exists for subordinating one group of law faculty to another based on the nature of the course, the subject matter, or the teaching method. All full-time law faculty should have the opportunity to achieve full citizenship at their institutions, including academic freedom, security of position, and governance rights. Those rights are necessary to ensure that law students and the legal profession benefit from the myriad perspectives and expertise that all faculty bring to the mission of legal education.

## Dear LWI members:

In addition to protecting and improving professional status for LWI members, the LWI Board has made discipline building the other of its two priority goals.

What do we mean by that? As a working definition—one that we hope will be the subject of further conversation at workshops and conferences across the country—we are looking at something like the following:

Building the discipline of our field includes (a) studying and conveying knowledge of theories, principles, practices, and conventions of legal communication and (b) supporting the personal and professional development of scholars and leaders in the field of legal communication.

This definition treats the substance of our discipline as worthy of systematic and scholarly study. It encompasses research, writing, teaching, and conversation across a range of forums, purposes, and audiences. It reflects an understanding that the field of legal communication grows stronger when teacher-scholars study and present what they know about how to construct effective legal arguments and documents, whether their knowledge derives from empirical research, rhetorical analysis, learning theory, cognitive science, or social science research—to name just a few of the likely sources.

No matter whether the audience is other law professors, law students, practitioners, judges, or the general public, discipline building in this sense fits squarely within LWI's mission as articulated more than 30 years ago: The purposes of the Legal Writing Institute are to improve legal writing, to promote and improve legal writing instruction, and to educate the public and the members of the bar about legal reasoning, research, and writing.

From its beginning, LWI has supported the development of legal writing as a field that is essential to legal education, the legal profession, and the judicial system, and thus a field well worth teaching, studying, and writing about. Together, we have spent a great deal of time in discussions of why we should engage in discipline building and of what that might mean. We hope the continuing conversation will involve many more voices in an exploration of these and other aspects of development of the discipline, including who should be involved in discipline building and how we should engage the project. The Discipline-Building Working Group (DBWG) will be organizing discipline-building



conversations at upcoming workshops and conferences, and we will look forward to your input. The current members are Linda Berger, Ellie Margolis, Anne Ralph, and Ruth Anne Robbins, and we hope others will be joining us.

On behalf of the LWI Board, our thanks once again to the editors of the Second Draft for editing and producing this valuable resource for our members.

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# Writing Specialist as Rescue Club



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I recently took up golf, relatively late in life. I reach for my “rescue club” whenever I’m out in the rough, the tall grass and weeds beyond the edge of the manicured course. As a wildly inaccurate golfer, I spend a lot of time out in the rough, with my trusty rescue club. Although my golfing skills are sub-optimal, I seem to have a natural affinity for golf metaphors. So, allow me to explain how, if I find myself in the rough in a conversation with a lawyer or judge, talking about our Writing Specialist functions as my rescue club.

Part of the fun of being a law school dean is the opportunity to talk almost daily with an incredibly diverse array of lawyers, judges, policymakers, and business leaders. Bar association meetings, alumni events, and advancement projects put me in conversations with lawyers in all manner of positions, from modest perches to places of extraordinary power and success. These discussions offer a feast for anyone curious about the state of our profession, or just interested in the stories and perspectives of people doing interesting work. But, in truth, no matter how different the worlds of the lawyers and the liveliness of our exchanges, some of what comes up is astonishingly predictable. And, as you may have noticed, some attorneys and judges are strongly critical of law schools.

Concern about the writing skills of new lawyers comes up all the time. Some of this is the ageless tendency of older people to find subsequent generations wanting. But there is more to it. I hear too many stories about new lawyers who do not know how to write a letter, or a professional email. Judges fret about dodgy memos. Managing partners complain about having to set up writing programs, and how ineffective those programs can be.

No matter how critical the tone, I welcome any complaint about lawyers’ writing. Inwardly, I grin. I always want people to come away from our conversations being more knowledgeable about our law school and more impressed by the education we are offering. Complaints about writing in the profession set me up perfectly to promote MSU Law. I love talking about our writing programs.

Sometimes I am the one who brings up writing. Not infrequently I find myself in conversation with someone who is hyper-critical of legal education, often based on long-ago experience. In that situation I might ask, “how do you find the writing of new lawyers?” And then I’m on firm ground.

Whether I am responding or initiating the conversations about writing, my message is as predictable as the complaints. I say that teaching writing well is a serious challenge, even with great students. Serious challenges require smart, creative responses. I explain that part of our response is the one professor on our faculty who does not have a law degree. That surprises everyone. I tell them about Professor Jeremy Francis, Associate Clinical Professor of Law and Writing Skills Specialist, a key member of

our faculty. Our commitment to educating fine legal writers took us beyond traditional law faculty credentials.

I explain that Professor Francis has a Ph.D. from MSU in Critical Studies in the Teaching of English, which I translate as a doctorate in how to teach the writing skills of excellent lawyers to smart law students who are adept at texting and social media, but not necessarily in the formalities of excellent writing. I explain that Professor Francis concentrates on punctuation, grammar, and style. Invariably, my audience is impressed and intrigued. They practically cheer when I say that every MSU Law student has to pass a proficiency test on grammar, punctuation, and style before finishing the first year. We have moved from the rough and gotten back on course.

.....

*Whether I am responding or initiating the conversations about writing, my message is as predictable as the complaints. I say that teaching writing well is a serious challenge, even with great students. Serious challenges require smart, creative responses. I explain that part of our response is the one professor on our faculty who does not have a law degree.... Our commitment to educating fine legal writers took us beyond traditional law faculty credentials.*

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I describe our students very positively. I say that our students have passions and values and technical skills that will transform our profession for the better. And I acknowledge that the reading habits of many students today are very different from those of their predecessors, leading to different writing habits. I agree that writing matters. Teaching legal writing to students accustomed to the protocols of texting or the conventions of tweeting is one of the big challenges for law schools.

I explain that we give a writing inventory test to every

student in his or her first week of class. Professor Francis works with his Research, Writing & Analysis colleagues to present workshops, seminars, and one-on-one instruction for countless students. There are plenty of other great things to talk about, of course, but describing our writing program, featuring our Ph.D. in teaching writing, is a sure-fire winner. Professor Francis and his co-authors have written an impressive paper on the writing skills proficiency program at MSU Law and its results, which you can find at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2664618](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2664618).

Although I talk about him all the time, I never have time to explain all the ways that Professor Francis impacts our law school. He is often in our clinics, where writing skills matter. He works with students on Upper Level Writing Requirement papers, and is a familiar presence in paper courses. He helped to develop our strong Legal English program for LL.M. students. On occasion, he coaches staff members whose writing skills are limiting their potential for advancement.

My conversations out in the world do not provide enough time to describe our writing programs very fully. Professor Francis is one of nine full-time professors who deliver a very ambitious Research, Writing and Analysis curriculum, and a variety of upper level courses. We operate from the conceptual premise that our legal writing program fits squarely in the center of the law school's central project of professional identity formation. Law students accustomed to different writing styles for different media embrace their legal writing work as learning a new professional language. Our program starts in the first semester with an option for students to choose a specialized writing course with an Intellectual Property, Criminal Law, or Social Justice focus. We are proud of the expertise of our RWA faculty, the scope of our RWA program, and our efforts to integrate writing throughout the curriculum.

But out on the campaign trail I rarely have time to say much of that. So I lead with our non-lawyer faculty member. Our writing program, especially our Writing Specialist, is a dependable redirection topic, transforming skepticism to engagement, even, when necessary, turning hostility into praise. When I am out and about, our Writing Specialist is my ace in the hole, my secret weapon, my special sauce. Talking about Professor Francis is like pulling out my trusty rescue club, getting me back on course.

# Living in a Material Word: The Applications of Poetic Form to Legal Writing



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The majority of texts that focus on the discipline of Legal Writing tend to prioritize the ways lawyers can use written language to organize and express their ideas. Those texts will often refer to Aristotle's rhetorical triangle as means for shaping one's argument, or they will offer larger macro-structures, such as CREAC or IRAC, as means for writers to shape and present their argument. While those approaches are certainly appropriate and often necessary for legal arguments, they tend to neglect how lawyers might use the multiple meaning-making properties of their words and the arrangement of those words to further augment their rhetorical aims.

Understanding, utilizing, and amplifying the meaning of words has long been the territory of poetry. Throughout poetic history, different poets have, at different times, attempted to articulate the means by which they create their art. Yet, the majority of those exegeses tend to default to the impulse of inspiration or some well-meaning but entirely subjective criteria based on personal aesthetics. To combat the ambiguity of such explanations while also subjecting poetry to a brand of scientific methodology, the poet Ezra Pound divided poetry into three categories based on the ways their words generate meaning. Those categories are logopoeia, melopoeia, and phanopoeia—or logic, sound, and imagery.

I came to my position as Legal Writing Specialist for Duquesne University Law School with a background in creative writing and English literature. In both of those fields, I found Pound's poetic categorizations useful for thinking about how words function as constructs—or things—that use their own inherent properties to produce meaning. Based on my experiences using those categories to inform my work at the law school, I believe that, by highlighting how form and content function interdependently to produce meaning, Pound offers Legal Writing Specialists a series of methods by

which they might both meet and exceed the remedial instruction expected of them by students and faculty. More specifically, I contend that, by introducing law students to basic semiotics and the elements of poetic craft as defined by Pound, Legal Writing Specialists can help their students begin to consider the meaning-making properties of the written word, and then, subsequently, to intentionally employ them to augment their rhetorical aims.

In a very basic sense, semiotics is the study of signs and symbols and the processes by which they create meaning. Written words can be both signs and symbols, but, for the purposes of this discussion, I'll focus primarily on their functionality as signs. In essence, a sign exists at the crossroads between a signifier and the signified—or, in other words, between the material word and the concept or entity to which it points. Too often, students seem to focus on the signified concepts housed within words and, as such, fail to consider the mutable properties of the signifiers—or the words themselves. While familiarity with the concepts

and practices of one's discipline remains important, writers do not push past remedial concerns or basic proficiency in writing until they understand and intentionally employ the meaning-making properties of the written word.

Pound's three categories of poetry—or ways words make meaning—were the gradual refinements of a poetry movement called Imagism. Pound developed Imagism as a corrective to the amount of rhetoric and blind adherence to standardized meter that he believed destroyed poetry. As opposed to a poet like Milton, whose poetry Pound argued simply made an argument and could be considered prose with line breaks, Pound wanted every word in his poems to deliberately contribute to that poem's meaning and, in some way, work to shape a linguistic presentation of that poem's content. Through logopoeia, melopoeia, and phanopoeia, the words of an Imagist poem provide its content with a sensorially perceivable and a seemingly objective shape. According to its design, then, Imagism

was to manifest itself as the furthest remove from rhetoric because the poet did not expressly state the poem's meaning. Instead, the poem's meaning resided within and between the objects that serve as its content. Yet, and this is what legal writers can most apply to their writing, by selecting and arranging the relationships between those objects (or evidence), Imagist poets essentially practice an invisible rhetoric

because they lead their readers to a predetermined conclusion that those readers believe they discovered on their own.

Pound defines logopoeia as “the dance of the intellect among words”, and that dance occurs in words, phrases, and formal structures.<sup>1</sup> The logopoeic properties of words exist in their denotations and connotations. Good writers choose words that have the appropriate definitional value; great writers choose the one word among the many with appropriate definitional values that also carries an appropriate associational value; Flaubert referred to this type of word as “le mot juste.” Moreover, as writers begin to string these words

together, they should also consider the order most appropriate to the rhetorical occasion. For example, knowing the average attention span prioritizes beginnings and endings and tends to drift in between, strong writers often place their most important ideas in logopoeically loaded terms located at the beginnings and ends of their sentences. Likewise, those writers also embed their weakest points, or the information that runs counter to their agenda, in the middle of their sentences. Not coincidentally, those two structures tend to define the differences between active and passive voice. Strong writers will, furthermore, draw on that same “bookending” strategy in the arrangement of their paragraphs.

Melopoeia may be the most traditionally poetic of these three categories, but that means the language of the legal writers who utilize it will pulse with even greater meaning than that of their peers. In Greek, the word “melos” means “song.” Generally, poets and lyricists tend to be the only writers who focus



on the melodic or sonic properties of their words. All words contain an aural component, however, and attentive writers can harness and direct those sounds toward producing an intended meaning. An author's tone is the most common means through which sound generates meaning. Typically, one associates tone with the definitional and associational—or logopoeiaic—properties of words, but the words' audible characteristics actually produce much of what readers perceive as tone. English speaking audiences, for instance, tend to find assonance (vowel sounds) soothing, but find consonance (consonant sounds) harsh and abrupt. Note the long vowel sounds in a phrase such as "Oh, my poor baby," as opposed to the biting consonants of "Take your things and get out." As such, if legal writers want to induce sympathy for their subject, they might construct phrases with high vowel counts. If, on the other hand, those same writers want to present their subject in a negative light, they might choose to discuss it in lines that contain many consonants.

The even more poetic effects of rhyme and alliteration function similarly to assonance and consonance, but draw greater attention to themselves and their sounds in the process. When the average person thinks of poetry, rhyme is usually the most defining characteristic that comes to mind. Yet, while almost everyone associates poetry with rhyming, few understand why it is such an elemental aspect of that art. Yes, rhyme does add to poetry's musicality, but it also subliminally links the two rhyming terms in the readers' mind and uses that musicality to lock them in their memory. One of, if not the, most famous examples of these attributes of rhyme in a legal setting is Johnnie Cochran's mantra from his defense of O. J. Simpson: "If it doesn't fit, you must acquit." When Cochran uttered that phrase, the rhyme of "fit" and "acquit" reinforced the lawyer's logic that paralleled those two conditions. That rhyme also resonated in the jury members' minds over the next two months of testimony, and has continued to linger in the minds of the general public since.

Like rhyme, alliteration also uses sound patterns to draw attention to certain words and commit them to the reader's memory. Whereas rhyme links words and concepts, though, the clipping sound of alliteration emphasizes the distinct and discrete nature of the words it delineates. Even though no lawyer has used alliteration to the same effect as Cochran's rhyme,

phrases such as "rest, residue, and remainder" and "hold harmless" have endured primarily because of their sound properties, but also because their alliterative properties work to deliberately distinguish the definitions of those words from one another.

Finally, phanopoeia refers to the images the writer places before the reader's imagination. In one of his better-known quotes, Pound advises his readers to "[g]o in fear of abstractions" because he believed abstractions were, by their very nature, large concepts that resist precise definition.<sup>2</sup> According to Pound (and much rhetorical and grammatical theory), one cannot convey precise meaning through abstractions—especially when that meaning is particularly nuanced and individual. As a remedy, then, Pound proposes that writers should bear witness to the events that give rise to their thoughts and emotions and then directly present those generative elements to their readers so they may experience them and their concomitant thoughts and emotions for themselves. Through such a process, poets and legal writers don't tell their readers what to think or believe about the subject under discussion. Instead, they offer their readers an arrangement of concrete particulars intentionally designed to elicit a specific intellectual and emotional response that the readers believe arose out of their own perceptions.

Even though the general concept of imagery defaults to the visual, almost any specifically locatable object or event can also function as an image. Of course, an image can appeal to any of the five senses, and, while good writers will attempt to offer images that appeal to a variety of their readers' senses, great writers will decide not only which sense might best perceive the image they want to present, but also which sense will perceive that image in the manner that best suits their rhetorical aims. Moreover, imagery need not be descriptive; any concrete noun can serve as an image. Concrete nouns or, even better, proper nouns can locate specific and precise meaning that also radiates with associational meaning. For instance, note the difference in specificity and, thus, potential rhetorical effect in the phrases, "The doctor stepped out of his car and checked his watch" and "Dr. Jones stepped out of his Lexus and checked his Rolex." The first simply describes an event, whereas the second presents us with exact details that not only let us know who the doctor is and what type of car and watch he owns, but also allow us to make certain assumptions regarding the doctor's wealth, professional ability, and priorities.

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*To me, the poet's and the legal writer's mission is similar: they both examine series of events, determine which actors and actions contributed most to the outcome in question, and then they excavate those details and arrange them in a particular order so that, when presented to their readers, they generate a particular and predetermined response.*

.....

Rather than imagery, Pound would sometimes refer to these specifically locatable items as “luminous details,” and he explained:

Any fact may be ‘symptomatic’, but certain facts give one a sudden insight into circumjacent conditions, into their causes, their effects, into sequence, and law. [...] A few dozen facts of this nature give us intelligence of a period—a kind of intelligence not to be gathered from a great array of facts of the other sort. These facts are hard to find. They are swift and easy of transmission. They govern knowledge as the switchboard governs an electric circuit.<sup>3</sup>

To me, the poet's and the legal writer's mission is similar: they both examine series of events, determine which actors and actions contributed most to the outcome in question, and then they excavate those details and arrange them in a particular order so that, when presented to their readers, they generate a particular and predetermined response.

Even though we, as Legal Writing Specialists, tend to have very little input on the subject matter of our students' writing, or even because we have such little

input on the subject matter of our students' writing, it seems to me we have a choice: we can offer our students basic remedial writing instruction that helps them focus and organize their content, or we can take that element of writing which is our specific domain—words themselves—and introduce students to it and show them how it can operate as a shadow form of rhetoric that can subtly shape both their content and their readers' perception of it.

Discussing poetry with lawyers and law professors has been a mixed bag for me. Sometimes, they actually seem interested in what I do outside of the law school and how it informs my work as a Legal Writing Specialist. Other times, though, I'm met with a grin and a subtle eye-roll. The one thing that I and the law professors with whom I work both know, however, is that the students who come to me to become better writers (as opposed to those who come wanting a half-hour proofreading service) end up learning how to think outside of templates and begin shaping their language so that its form unifies with its content. Even though, traditionally, legal writing tends to sacrifice aesthetics for the sake of rhetoric, while poetry sacrifices rhetoric for aesthetics, those two types of writing both concern themselves with accuracy, efficiency, and precision—or the quality of expression. Therefore, if more legal writers were to begin understanding and utilizing the aesthetics of poetic craft to shape and enhance the rhetorical content of their writing, we may find ourselves speaking of lawyer-poets as often as warrior-poets.

#### NOTES

1. Ezra Pound, *How to Read*, in LITERARY ESSAYS OF EZRA POUND 15-40 (T. S. Eliot ed., 1935).
2. Ezra Pound, *A Few Don'ts by an Imagiste*, POETRY FOUNDATION (March 3, 2016), <http://www.poetryfoundation.org/poetrymagazine/article/335>.
3. Ezra Pound, *I Gather the Limbs of Osiris*, in SELECTED PROSE 1909—1965 19-43 (William Cookson ed., 1975).

# The Structured Writing Group: A Different Writing Center?



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Over the course of a few (treasured) hot months in Minneapolis in 2014, legal writing faculty and administrators at the University of Minnesota Law School determined to deploy some of our precious legal writing resources to develop and staff a new program: the “Structured Writing Group” (SWG). We wanted this project to achieve some outcomes traditionally associated with writing centers<sup>1</sup>: first, improving the student writing process by facilitating collaboration with a writing expert<sup>2</sup>; and second, exposing students to additional audiences for their writing. We added a third goal of improving the experience and performance of multilingual students in the legal writing program. This article describes the objectives of the SWG, its first-year implementation, and our assessment of it. In short, it was an efficient way to increase feedback, foster audience awareness, and address needs of our multilingual students.

## I. WHY THE SWG?

We recognized that many law students come to us as proficient writers in other contexts—professional writing in other fields, academic writing, creative writing, etc.—but that the expectations of good writers in those contexts are different than writers in the law. We wanted to focus on the things that make legal writing different from the writing that students had done before law school. We recognized that our course and instructors<sup>3</sup> rightly focused on “higher-order concerns (e.g., organization, argumentation, the handling of evidence),”<sup>4</sup> but we wanted to develop a resource that focused on “lower-order concerns (e.g., grammar, syntax, punctuation)”<sup>5</sup> of legal writing.<sup>6</sup> The SWG would be a space for new legal writers to analyze legal writing genres and explore linguistic

conventions in American legal writing.

We were particularly interested in addressing the needs of multilingual<sup>7</sup> students, whether they were international students or “Generation 1.5” students, the “U.S.-educated children of first-generation immigrants.”<sup>8</sup> The percentage of multilingual J.D. students in our program has grown continually in recent years. Multilingual students face a wide variety of challenges in the university classroom generally.<sup>9</sup> The linguistic backgrounds of some of them may make law school writing more challenging. We sought to address some of these concerns here.

Before developing the SWG, we considered sending students to the Center for Writing on the University of Minnesota main campus, which advises undergraduate and graduate students across disciplines. We were reluctant to do so for three reasons: First, we were concerned about potential Honor Code issues that might arise from students receiving extra support from professionals outside the Law School. Second, there could be perceived fairness issues if we sent students to the Center but were unable to monitor or control the type of feedback they received. Finally, there is doubt whether the undergraduate writing center is always prepared to address the needs of professional students.<sup>10</sup> We preferred to choose the sources and kinds of feedback and to monitor the feedback provided.

We explained the purpose of the SWG to our 1Ls at orientation and to our legal writing instructors before the start of the semester, emphasizing that it was open to all students. We encouraged legal writing instructors to refer students to us, but also emphasized the need to do so with some delicacy. We recognized that students might perceive the SWG as remedial instruction, but we claimed that we would function in the same way as an undergraduate “writing center.”<sup>11</sup>

## II. WHAT IS THE SWG?

We tied our writing support program directly to our legal writing course as an ungraded, non-credit class. The SWG operated as a combination of supplemental class meetings and individual conferences and email consultations. During weeks when students were not turning in an assignment in their legal writing class, the SWG would meet to supplement instruction from the regular sections, to explain concepts from assignments

in more detail, or to show the students examples and explain them. We scheduled the SWG meetings to avoid conflicts with students’ other classes.

The SWG leader developed the SWG “syllabus” to complement the LW syllabus for the fall semester. For example, in the first week of regular LW sections, students were scheduled to discuss the basics of IRAC and of professional email and to receive an email assignment to be turned in during week two. In the SWG, we gave students a list of legal terms based on the assignment they would receive; we included definitions of those terms from Black’s Law Dictionary and emphasized the need to look up terms, even when they seemed to have an everyday meaning. We addressed the types of phrases that students need to use when communicating a legal analysis.<sup>12</sup> We explored conventions in American legal writing for citing every assertion (whether about fact or law) that is not derived by explicit inference, using as an example a real-world memorandum of law. Finally, we provided advice from Section 16 of Garner’s The Redbook 3d, regarding composing emails.<sup>13</sup>

During weeks when students had assignments due in the legal writing class (six in the fall semester), we would not hold a SWG class but would instead schedule thirty-minute appointments.<sup>14</sup>

We encouraged the students to send portions of their writing to us via email with specific questions if they could not make an appointment. When providing written feedback, we followed advice from writing pedagogy research regarding feedback,<sup>15</sup> particularly research regarding second-language writing.<sup>16</sup>

## III. WHO TAUGHT THE SWG?

We selected SWG instructors with three characteristics in mind: pedagogical training in writing instruction (particularly with multilingual students), legal practice experience, and experience teaching in our program. The SWG leader (first author on this paper) was a PhD candidate in rhetoric and technical communication and an attorney with more than a dozen years of practice experience and seven years of experience teaching in our program. The student instructor paired with the leader was a multilingual 2L with experience teaching English to immigrants in the U.S. We added a third faculty member to help keep up with the requests for assistance from students: a lawyer with more than five years of practice experience

who had previously taught in our legal writing program and was proficient in Mandarin, a skill that proved helpful with some of our students.

In a program like ours, where all sections use the same syllabus and assignments, instructors familiar with the program were valuable because they could address specific student concerns. Instructors with law practice experience and sensitivity to variations in writing practices helped address differences among the expectations of the adjunct attorneys who were regular section instructors. Instructors with experience teaching English or writing to multilingual students understood unique concerns for those students. Our impression is that an adjunct attorney instructor (or two) could adequately teach a version of the SWG at another law school, provided the instructor(s) had experience in two or more of these categories and received the support of a full-time legal writing professor or director.

#### IV. WHAT DID THE SWG CLASS SESSIONS TEACH?

We asked all students to send us copies of their writing assignments when they submitted them to their regular LW section instructors. This permitted us to tailor subsequent SWG class sessions to address concerns evident in the students' writing. For example, we discussed the verb tenses appropriate for narrating the outcomes of cases and the facts in the students' problems; we explained differences among verbs about what courts do in opinions (do they state, assert, find, hold, argue?); and we covered topics such as the subjunctive mood, strategies for combining sentences, and how to characterize facts from a record in a summary judgment motion memorandum. In the spring, we offered students who were anxious about oral presentations chances to practice oral argument skills several times before the oral arguments they gave for credit later in the semester.

We also took the opportunity to show students how to unlearn, or at least nuance, what they had learned in undergraduate writing courses. For example, undergraduate students with science backgrounds are often taught to write using the passive voice because, in science writing, the experimental materials are the reader's focus, not the person wielding a pipette.<sup>17</sup> Legal writing teachers, on the other hand, usually disfavor the passive voice, and we emphasized the

need to employ it only sparingly and strategically.

At our first meeting, fifty-eight students attended, nearly 30% of the total 1L legal writing class. By the second class, attendance dropped by half to twenty-nine students. For the balance of the first semester, attendance at class sessions varied between five and ten students. During second semester, the numbers were smaller, between three and six students attending each class session. We anticipated such a drop off, especially given the early-morning scheduling, about which some students complained when we asked them about the SWG.

#### V. WHO USED THE SWG CONFERENCES?

Conferences and requests for written feedback followed a different pattern. We tracked all the interactions with students in a spreadsheet in the "cloud" accessible to the SWG instructors and the Legal Writing Directors. For each student contact, the spreadsheet included relevant details and a short note from the SWG instructor indicating any key observations. We also stored copies of student work and our comments on it in a "cloud" folder accessible to the same personnel. Students could work with different SWG instructors, as all of them had access to previous comments and notes and could approach each student with some knowledge of her. These records supported the Directors when assessing the efforts of those students who seemed to face special challenges and to require intervention from the administration.

According to our tracking worksheet, SWG instructors provided 90 conferences with students during the year, with an additional 34 contacts where students received written feedback without a conference, for a total of 124 contacts. Forty-six students (representing 24% of the 1L class) received these contacts, with each student receiving a mean of 2.18 contacts (std. dev = 2.41, median= 2, max = 12). We estimate that the three SWG faculty invested a total of 77 hours in these 124 contacts (40 minutes to prepare for and take part in each conference and 30 minutes to respond to each request for written feedback).

#### VI. WHAT DID WE LEARN?

Our impression of the classroom sessions is that they functioned to clarify things for the SWG students and to empower them to ask questions. Because an attorney

instructor led each regular LW section, and attorney instructors had individual expectations of their students, we could create the SWG as a safe place for students to question what the attorney instructors were doing. For example, on a spring memorandum project, some regular section instructors wanted students to weave policy arguments into each major argument category, while others wanted students to have a separate policy section at the end of the memorandum. We discussed this variation in the SWG and used it to encourage students to ask questions of the regular LW instructors about their expectations. When a student asked us a question she would not ask her instructor, we would often respond by illustrating why at least two different answers were possible and defensible, and then suggest that the student ask her instructor. In effect, we tried to help students understand when questions they were reluctant to ask their regular instructors (who would be grading them and writing letters of reference) were not “stupid questions” at all, but important questions about argumentative and stylistic preferences.

As for the individual consultations, our impression was that the students with multiple contacts in the fall tended to be a mix of students who were struggling and those who were hoping to succeed at the highest level; in the spring, by contrast, the students with multiple contacts tended to be high performers. Multilingual students were well-represented both among spring and fall contacts and among students struggling and those hoping to succeed at the highest level. Native English speakers who participated tended to be those hoping to succeed at the highest level. But we know that some native speakers who did not attend the SWG were struggling in legal writing, so perhaps they did not see themselves as candidates for the SWG because our introduction of it during orientation suggested we were emphasizing the needs of multilingual students, or perhaps their instructors were more inclined to refer multilingual students to the SWG.

The SWG also helped the directors of the legal writing program (one of whom is second author on this essay) manage it. First, it brought to their attention a couple of cases where a student found the program’s instructions on an assignment confusing or where a student feared that some regular LW instructors were interpreting the assignment inconsistently. The Directors could send an email to all the instructors suggesting a particular tack without singling anyone

out. Second, we were able in a few cases to identify students who were struggling but whose difficulties had not yet come to the attention of their regular LW instructors and to offer early intervention.

## VII. SWG AS A DIFFERENT, IN-HOUSE, WRITING CENTER

The SWG was similar to a writing center in that all students were “welcome to receive free advice in a safe and pressure-free environment that favors a collaborative approach to instruction, because tutors do not assign grades to their clients’ papers.”<sup>18</sup> We also sensed a tension commonly described in the writing center literature between the objective of the program, which was to make better writers, and the objective of some students, which was sometimes to get their papers proofread or copy-edited.<sup>19</sup> We addressed this in part by highlighting student errors without correcting them, which has been identified as the better method to help students to learn to correct their own errors.<sup>20</sup>

Our conferences were different from the typical undergraduate writing center tutorials in one key aspect: All SWG instructors had taught or studied the material about which students were seeking our advice, and because the writing program’s assignments are standard across sections, we could become intimately familiar with the students’ research materials and possible arguments. This made possible a Socratic dialog in student conferences whereby the instructor could help the student hone her critical thinking skills as applied to the legal issue at hand.

Another significant difference from the writing center model was the SWG class sessions. Our impression is that students in these sessions were learning from the instructors and from other students. The questions that students posed about assignments in this environment encouraged other students to ask their own questions. And the SWG class validated the questions—students could leave feeling it was reasonable for them to lay their questions and doubts before their instructors.

Despite these differences from typical writing centers, the SWG’s goals were similar to them: to improve students’ writing process and self-editing process, and we wanted to provide an opportunity for students to receive this type of feedback on their writing without grades on the line. In short, we hoped to see “cleaner” writing, better organization, and deeper analysis from

those who regularly attended the SWG. Second, we wanted students to understand that the audience for their writing was not only their legal writing professors. By diversifying the audience who would read students' writing and giving students a new, fresh reader to whom they needed to explain their thinking, their reasoning, and their purpose for writing, we hoped to increase student awareness of their audience. Third, we hoped to help our multilingual students and our students who struggled with legal writing in English achieve a level of proficiency that would enable them to succeed at law school and in the profession.

These three goals are difficult to measure at such an early stage. Our evaluation of the program took the form of a student survey, the detailed results of which we cannot share because it was not cleared in advance by our Institutional Review Board. But we think we made significant progress on all three. We are continuing the SWG this year, and we plan to continue it indefinitely. It was possible to pilot the program at relatively low cost, without making the budgetary and appointment commitments necessary to launch a true writing center.

#### NOTES

1. Lucie Moussu, *Let's Talk! ESL Students' Needs and Writing Centre Philosophy*, 30 (2) TESL CAN. J. 56 (Spring 2013); Philip J. Sloan, *Are We Really Student-Centered? Reconsidering the Nature of Student "Need"*, 10 (2) PRAXIS: A WRITING CTR. J. 1 (2013).
2. Writing as a process: Sherri Lee Keene, *Are We There Yet? Aligning the Expectations and Realities of Gaining Competency in Legal Writing*, 53 DUQ. L. REV. 99, 109 (2015); Writing as thinking: Mary Beth Beazley, *Better Writing, Better Thinking: Using Legal Writing Pedagogy in the "Casebook" Classroom (Without Grading Papers)*, 10 LEGAL WRITING: J. LEGAL WRITING INST. 23, 41 (2004). Commenting as important teaching tool: Anne Enquist, *Critiquing and Evaluating Law Students' Writing: Advice from Thirty-Five Experts*, 22 SEATTLE U. L. REV. 1119, 1125 (1999).
3. The legal writing program at the University of Minnesota can be described as a "complex hybrid" model under the ALWD/LWI Survey: Each section has about 10 students, an attorney instructor, and a student instructor. The attorney is an adjunct instructor recruited from the local legal community. The legal writing program recruits students, usually standout performers in their own legal writing sections and often students with an interest in or experience teaching. All the sections use the same assignments and assignment schedule, which the legal writing program promulgates.
4. Moussu, *supra* n. 1, at 59; see generally Daniel L. Barnett, *Triage in the Trenches of the Legal Writing Course: The Theory and Methodology of Analytical Critique*, 38 U. TOL. L. REV. 651 (2006-2007).
5. Moussu, *supra* n. 1, at 59.
6. See Elizabeth R. Baldwin, *Beyond Contrastive Rhetoric: Helping International Lawyers Use Cohesive Devices in U.S. Legal Writing*, 26 FLA. J. INT'L L. 399 (2014).
7. We use the term "multilingual" rather than "English as a second language (ESL)" or non-native speaker to describe these students as that is the growing convention in the field of second language writing. Talinn Phillips,

- Tutor Training and Services for Multilingual Graduate Writers: A Reconsideration*, 10 PRAXIS: A WRITING CTR. J. 2 at 1, n.1 (2013).
8. Dana R. Ferris, et al., *Written Corrective Feedback for Individual L2 Writers*, J. of SECOND LANGUAGE WRITING 22, 310 (2013).
  9. See, generally, Paul Moore & Greg Hampton, "It's a Bit of a Generalization, but . . ." *Participant Perspectives on Intercultural Group Assessment in Higher Education*, Assessment & Evaluation in Higher Educ. at 4 (2014) (international student reluctance to speak in class and domestic students preferring to work in groups with students from the same cultural and linguistic background as themselves); Janette Ryan and Rosemary Viete, *Respectful Interactions: Learning with International Students in the English-Speaking Academy*, 14 (3) TEACHING in HIGHER EDUC., 303–314 (problems with discipline-specific vocabulary or fast-paced lectures containing unfamiliar local knowledge and pronunciation, inadequate opportunities to participate in classroom dialogue, and international students feeling that their knowledge is not valued in group work).
  10. Talinn Phillips, *Tutor Training and Services for Multilingual Graduate Writers: A Reconsideration*, 10 (2) PRAXIS: A WRITING CTR. J., at 1.
  11. We did so with the knowledge that there is not a single model for what an undergraduate writing center looks like. Though writing center models are contested among theorists, "writing center workers pride themselves on their tradition of responding to local conditions, and they respect the programmatic variety among differently situated writing centers." Nancy Maloney Grimm, *Rearticulating the Work of the Writing Center*, 47 C. COMPOSITION & COMM. 523 (1996). We acknowledge that remediation may be seen as a central role of at least some writing centers by at least some students. And we do not disavow remedial goals for the SWG.
  12. For example, words and phrases that signal transitions, conclusions, analogies and comparisons, emphasis, and alternatives.
  13. In fact, we suggested that students acquire a copy of *The Redbook*. We made it clear to students that we did not embrace all the advice in that volume and that they should not either. But we noted that legal writing following the conventions in *The Redbook* would be unlikely to offend most readers.
  14. Although finding classroom space for the group meetings was not difficult, finding space for individual conferences was more challenging. We worked with library staff and curricular staff to reserve space well in advance of the conference weeks.
  15. Richard Beach & Tom Friedrich, *Response to Writing*, HANDBOOK OF WRITING RESEARCH 222, 226, 227, 231 (Charles A. MacArthur, Steve Graham & Jill Fitzgerald eds., 2006). See generally Richard Beach, *Showing Students How to Assess: Demonstrating Techniques for Response in the Writing Conference*, WRITING AND RESPONSE: THEORY, PRACTICE, AND RESEARCH (Chris Anson ed., 1989); Peter Elbow, *WRITING WITH POWER* (1981); Dana R. Ferris, *RESPONSE TO STUDENT WRITING: IMPLICATIONS FOR SECOND LANGUAGE STUDENTS* (2003); Richard Straub, *The Concept of Control in Teacher Response: An Exploratory Study*, 31 RES. IN THE TEACHING OF ENG. 91 (1997).
  16. See generally J.L. Montgomery & W. Baker, *Teacher-Written Feedback: Student Perceptions, Teacher Self-Assessment, and Actual Teacher Performance*, 16 J. SECOND LANGUAGE WRITING 2, 82-99 (2007) Ken Hyland, *Faculty Feedback: Perceptions and Practices in L2 Disciplinary Writing*, 22 (3) J. SECOND LANGUAGE WRITING 240-253 (2013); J. Truscott, *The Effect of Error Correction on Learners' Ability to Write Accurately*, 16 (4) J. SECOND LANGUAGE WRITING, 255-272 (2007).
  17. A.M. Wilkinson, *Jargon and the Passive Voice: Prescriptions and Proscriptions for Scientific Writing*, 22 (3) J. TECHNICAL WRITING & COMM., 319-325 (1992).
  18. Moussu, *supra* note 1, at 56.
  19. See, e.g., Bobbi Olson, *Rethinking Our Work with Multilingual Writers: The Ethics and Responsibility of Language Teaching in the Writing Center*, 10 (2) PRAXIS: A WRITING J., at 1 (2013); Moussu, *supra* note 1, at 59.
  20. Beach, et al., *supra* note 12, at 230.

# Writing Rangers



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After thirty-years in the business-side of higher education, I delight in returning to law school and guiding students during the transformational process of becoming lawyers. Using stories and words to inform and influence in the context of the law is precisely the same as in the worlds of marketing and strategic planning.

I've spent most vacations wandering state and national parks of the American West. National park rangers serve as the initial checkpoint for whatever recreation might be on my agenda, especially a check-in on the wildlife and activity scenes. Stephen T. Mather, the first director of the National Park Service, said of park rangers:

They are a fine, earnest, intelligent, and public-spirited body of men, these rangers. Though small in number, their influence is large. Many and long are the duties heaped upon their shoulders. If a trail is to be blazed, it is "send a ranger." If an animal is floundering in the snow, a ranger is sent to pull him out; if a bear is in the hotel, if a fire threatens a forest, if someone is to be saved, it is "send a ranger." If a Dude wants to know the why, if a Sagebrusher is puzzled about a road, it is "ask a ranger." Everything the ranger knows, he will tell you, except about himself.<sup>1</sup>

Legal Writing Specialists are to the law student what park rangers are to the visitors of our national parks. They guide and interpret, scout and remove path

obstacles, support and complement other agencies, and provide tools for students to set out on their law school journey—thus the title "Writing Rangers."<sup>2</sup> A writing ranger may never be called to deal with a bear in the lobby of our law buildings, but the current corps of writing rangers most certainly handles the result of "knives being brought to gunfights."<sup>3</sup>

## GUIDE AND INTERPRET

Similar to the park ranger who leads hikes, gives fireside chats, and guides visitors through maps and exhibits, the writing ranger guides students through strategy and planning, constructing and editing of documents, and interpreting faculty feedback.

Early in the fall, first-year students often arrive at the writing office not quite sure what they are seeking. They were referred by faculty, academic success program (ASP) staff, or other students. We spend time sorting out concerns, investigating the origin of where students became stuck. By observing each student's style, the writing ranger maps out a direction for the semester. Work sessions are approached as collaborators; many times, writing isn't discussed in a first meeting. We talk about relearning to read (not just scan material), professional communication style, approaching faculty members, and legal writing techniques. Students discover that writing assignments and courses are not add-ons to the "real" law courses. They encounter the idea of writing as delivering a message where details and accuracy matter like never before.

Second-year students arrive suffering from summer learning loss. They seek assistance with assignments in courses on drafting, legal journalism, and appellate

advocacy. Third-year students may seek assistance with their seminar paper, and on occasion, a law review student will stop by—less for editing assistance than for a refresher on a particular writing technique.

For each assignment, the faculty determines whether the writing service is in- or out-of-bounds. The writing ranger receives the same background materials provided to students, as well as insider information.

For students requesting feedback on a final draft, advance review is essential to ensure a productive one-on-one work session. The writing ranger crafts a personal editing checklist for each assignment by reviewing the student's document format and flow, grammar and punctuation, and word choice and clarity—always within the context of audience and objective. In the work session, we review the document and the edit checklist. And, we always work from hardcopy; it is impossible to assess flow by looking at computer screen.

The ultimate goal is learning to critically self-edit. Appointments are not available on the day assignments are due. At that point, students may simply apply suggestions without reflection. Without time to think, students also risk applying a suggestion that may be counter to the professor's direction.

Students recognize that the writing office differs from courses in which they enroll—work sessions are not required and grades are not given. Students self-determine how they use the writing service—some request weekly meetings, some schedule work sessions based on writing assignment due dates, and some will meet just once as a jump-start to this new form of writing.

Early in the fall, students confuse the writing office with a proofreading or fact- and citation-check service, but this misunderstanding is easily corrected by describing the boundaries.

All students are cautioned to “slow down.” Deep-reading required of case law, planning for research, and drafting and editing of effective documents cannot be done in a hurry. A professional,

strategic approach is fundamental for every piece of communication. Nothing good comes from submitting an unedited paper to a professor, especially for a third-year student. When this occurred at Valpo (yikes), the professor (a senior member of the faculty) escorted the student to the writing office; once the professor departed, we talked about both professional conduct and editing.

A second caution offered regularly to students is awareness of context—both their written communication and their personal brand. They become more effective communicators if they keep in mind the bigger picture of the story, the law, and their role in the highly social legal profession.

## SCOUT AND REMOVE PATH OBSTACLES

Beyond teaching, park rangers help visitors follow park rules, rescue visitors (and sometimes wildlife), and fight wildfires. So too, the writing ranger shepherds students who find themselves struggling with both the transition to law school and the particulars of legal communication.

While the law school experience has always been a bit of a drinking-from-the-end-of-a-fire hose experience, the first seven weeks at Valpo Law are law-firm like intense. The writing assignments come fast with weekly due dates for students and quick grading turnarounds for faculty, leaving little time for students to completely digest faculty comments before another writing assignment is due. The intensity can be a catalyst for some students, while others are left bewildered.

The writing ranger becomes a life-line for students struggling with unfamiliar territory. Students are re-engineering themselves, sometimes consumed by the full range of fear, frustration, and fatigue typical of a change environment. Students' inability to quickly adapt skills to the new form of communication disable the all-important self-confidence needed for law school success. An emotional wilderness sets in, and students seek a silver bullet that will cure their writing challenges and put them on the path to success. Managing mind-set becomes as important as coaching writing techniques.

Valpo's curriculum delivers the first set of grades after seven weeks, providing an opportunity to intervene with students whose grade-point averages fall below



a designated level. Email invitations are sent to those students, and reminders are sent to regular student-clients about getting on the writing ranger's schedule. This same technical rescue is followed between the fall and spring semesters and between the first- and second-year.

In order to reduce the students' exasperation and maintain forward momentum, we spend less time on what went wrong in the assignment, than on what can be learned for the future. This commonly means repeating key messages such as start the assignment earlier, pay attention to the professor's instructions, leave (much) more time for editing and proofing, and read the draft aloud.

Students without skills to compose a narrative present the greatest challenges. They tip the balance of clarity and brevity to awkward and abrupt, creating paragraphs and sentences that are difficult to read and comprehend. It's important to catch these students before they submit the document to the professor, so that they can be steered to better models and urged to rewrite.

Interestingly, students most open to adapting communication styles are multilingual. While they might struggle with punctuation or the use of articles, their radar is already finely tuned for new words with various connotations. Not surprising, students in the top half of each class are most diligent about requesting assistance from the writing office; some scouting is necessary to gather in the second half of the class.

Because each student is so different, the writing ranger must possess on-the-spot agility to call up skills for counseling, coaching, or mentoring—and the ability to jump among various stories and legal issues such as applying fair use, liability for dog bites, resolving landlord-tenant disputes, defining a dwelling, and simplifying a segment of legislation. An effective technique is linking students' life experiences and talents (music and the arts, military service, medical school and the sciences, or raising children) with the discipline needed to become effective legal communicators.

To be good writers, students need to be good readers, and the writing ranger encourages students to think differently about the course material they are required to read. Pay attention to the structure and flow of the opinion(s), to the words and phrases.

The writing ranger points students to the variety of books, articles, and electronic resources on legal writing and communication, but students' workload hinders further exploration. So, a simple strategy and style list keeps students on a positive path and on pace with their fast moving environment.

## SUPPORT AND COMPLEMENT OTHER AGENCIES

To meet the mission of enjoyment, education, and inspiration, park rangers collaborate with other agencies within the Department of Interior, sharing challenges and solutions. In the spirit of teamwork, the writing ranger partners with academic and administrative colleagues to meet the law school's strategic objectives and individual student's goals.

Located in the main faculty hallway, the writing office enjoys ready connections with students and academic and administrative partners, including ASP staff, and student affairs professionals. Other important collaborators are the Career Planning Office and Veterans' director. While the writing ranger reports to the Associate Dean of Academic Affairs, partnering with ASP is crucial because they have a keen understanding of individual students and the law school climate.

The writing ranger's work is a support service to the faculty, and similar to any business environment, knowing supervisors' preferences is fundamental. Each professor has particular expectations for punctuation and structure, and students are warned that if the writing ranger's suggestion is different from a professor's preference, they must follow the professor's direction.

To stay connected, the writing ranger attends meetings of faculty teaching first-year courses and legal writing. Because the role interprets, supports, and complements instruction, the writing ranger reinforces messages of others—beginning with messages delivered repeatedly during the extensive orientation program.

The concept of professional etiquette often needs



additional unpacking beyond orientation. The writing ranger asks students to imagine law school as a law firm with faculty as supervising attorneys. Students are advised on managing appointments with faculty, appropriate tone for both emails and in person conversations, and techniques for active listening.

From the students' perspective, the writing service comes naturally at the end of the writing assignment process. Students have required meetings with their legal writing professor and teaching assistant, so an appointment with the writing office is usually a day or two before a due date. It's a bit of a scramble to accommodate every student seeking last minute appointments. Adding to the complexity, first- and second-year assignment due dates tend to fall in the same week.

## PROVIDE TOOLS FOR THE JOURNEY

For visitors seeking a deeper experience in nature, park rangers issue permits and provide survival tools. With an eye toward the law school journey ahead, the writing ranger reminds students of the services around them by way of people and writing resources.

Often, law school and campus colleagues ask if there are some identifiable reasons for students' communication and writing challenges. I respond that students are simply underexposed to great writing, even to standard business communications. This observation crosses all demographic categories and academic profiles.

Students were not encouraged to read enough or write enough in prior academic environments. As a result, inquisitiveness is dim, other-centeredness is unexplored, vocabulary is shallow, and style is fuzzy ("I never learned to use a comma." "What does active voice mean?"). Students find themselves trying to swiftly meet professors' expectations. It would be great to require students to read the *New York Times*, but that sort of reading is unlikely for most students for now.

At the end of a semester's worth of sessions, students will sigh and ask if their writing will ever get better. "Of course," the writing ranger responds. "Communication, like lawyering, is an art and requires constant practice."

The writing service operates as the "department of buff and polish" for students ranked at the top of the class. For others, simply listening and unearthing

writing challenges becomes a starting place for an academic year's work. Part of the role is simply to coach to inquisitiveness. Students are urged to seek out additional tools—using print, electronic, and people resources—not just about the law but about adapting communication styles to audience and objective.

It may seem obvious, but students need to be reminded to use tools recommended and provided by the faculty—the course books, models, guidelines, and other materials. So, the course books and assignment guidelines reside on the writing office worktable and are intentionally referenced in work sessions.

The students and writing ranger share a common path and purpose. We preserve the students' own style and personality and add a new other-centered perspective; we re-calibrate writing to purposeful, professional communication; and we grow talent for effective leadership and service in their professional and civic roles.

On occasion, the writing ranger is invited to an Admissions Office prospective student reception. Students will ask how best to prepare for writing in law school. After the writing ranger talks about the importance of real reading, the writing ranger suggests that they take a page or two from a favorite undergraduate or graduate paper and rewrite it deleting most adjectives, adverbs, and prepositional phrases, but yet retaining the paper's original flow and meaning. We laugh, but they get the point—this writing will be different; and a writing ranger will be on lookout for them.

## NOTES

1. Horace M. Albright and Frank J. Taylor, "OH, RANGER!" A BOOK ABOUT THE NATIONAL PARKS vii (1928), vii.
2. Especially poignant in the centennial year of the National Park Service.
3. See Susan Stuart and Ruth Vance, *Bringing a Knife to the Gunfight: The Academically Underprepared Law Student & Legal Education Reform*, 48 Val. U. L. REV. 41 (2013) for a contextual and empirical analysis of the learning styles and experience gaps of our current generation of law students, all of which gives rise to the need for writing specialists. Dr. Lesley Novack formerly served as a Professor of Psychology at Mary Baldwin College.

# Writing Centers as Spaces to Acculturate International Students to U.S. Legal Discourse



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## I. INTRODUCTION

The Language Center at Georgetown University Law Center functions as a multi-service space for foreign-trained LL.M.s who seek co-curricular options to improve their fluency in academic and legal English. Our pedagogy reflects a discourse-based approach to language instruction<sup>1</sup> and recognizes a dynamic relationship between law and language.<sup>2</sup> The Language Center's signature courses—the Writing Workshop and the Conversation Workshop—share the goal of acculturating the foreign-trained lawyer to the U.S. law school classroom. Many of our students come from legal traditions that favor exposition to argument, and passive lecture-based instruction to the dialogic structure of the Socratic Method. Professor DeJarnett suggests that U.S. legal pedagogy is binary, in that it “teaches through speech but evaluates through written analysis, without attending to the significant differences between these means of communication and learning.”<sup>3</sup> Our voluntary enrichment services target these related skill sets using a linguistics-based approach.

This model may prove useful to other law schools that have an increasing international student population.

## II. LANGUAGE CENTER PEDAGOGY AND CLASSROOM EXPERIENCE

### A) Addressing the Needs of an International Student Body

The Language Center has a unique staff composition and diverse student body. The professors are attorneys, linguists, or both. Each faculty member possesses international teaching experience, and we make use of a collaborative “lawyer-linguist” co-teaching model to provide a range of expertise in the classroom.

International students constitute a large part of Georgetown's LL.M. population. The students are diverse—regionally, linguistically, and professionally. Our LL.M. cohort is a microcosm of the many “World Englishes” used globally.<sup>4</sup> Some students—such as those from former British Commonwealth countries like India or those who went to American schools in their home countries—have attended schools where English is the main language of instruction. Others have never gone to a school where the content-based courses are conducted in English. Their goals also vary: some may

be published academics in their home countries and would like to publish something in an American law review; others have never written a lengthy analytical paper even in their native languages and are simply looking to improve their English writing skills.

Rather than dividing students by language ability, the Language Center groups this diverse population of students into the same classes. The Conversation Workshop is a non-credit eight-session class where students practice their oral skills while discussing U.S. legal, cultural, and political topics. This increases not only the students' general oral fluency but also targets their ability to converse in legal academic and professional settings. Many of the students come from educational backgrounds where classes tended to be lecture-based and they subsequently find the Socratic Method confusing and intimidating. Providing low-key, low-risk opportunities for them to discuss legal topics in English improves their ability to orally participate in other classes and work environments.

The Writing Workshop is a non-credit eight-session course that focuses primarily on scholarly writing and also touches on other types of writing such as exams and reflection papers. In addition, we offer a pass-fail one-credit class (Advanced Scholarly Writing), which covers similar content as the Writing Workshop but has mandatory rather than optional assignments. Students must be concurrently enrolled in a seminar class with a 20-page paper requirement to take either writing course, as the curriculum is designed as a supplement to assist in the research and writing process for seminar papers. The class curriculum acculturates the students into the U.S. legal academic tradition, emphasizing, for example, claim-based vs. descriptive writing. Many of the students have little to no experience in analytical writing, as they come from educational backgrounds where the evaluation process is more likely to be fact-based written exams, reports, or oral exams. We also focus on discourse style, text organization, and writing mechanics, including word choice and grammar.

Assignments for both writing courses include a topic statement, outline, first draft, and final draft. We recommend the submission of these "writer-based" documents that track the process from topic identification to final product, and that encourage the writers to situate themselves within the academic conversation in their subject area (e.g., a critique of a canonic article related to their topic). This encourages the students to self-evaluate their research and writing process, so that they can develop a transferrable rubric for good academic writing to use in future contexts.<sup>5</sup> Motivating discourse-based questions for the student might include: what is the purpose of this assignment? And who is the audience?<sup>6</sup> For example, when writing about a comparative or international legal topic on one's "home country" legal system, LL.M. students might assume background knowledge that the American reader lacks. Activities

such as class presentations and peer review can aid this self-evaluation process. Many of the students are taking the same or similar classes and thus are in a good position to critique their peers' work. Language Center professors provide further critique and meet the diverse needs of the population by providing

extensive written feedback on student submissions. Students also have the opportunity to meet one-on-one with Language Center professors to discuss their papers. These services are only available for students who attend a majority of the class sessions.

We are housed in one of the libraries on the Georgetown Law campus. The setting of the Language Center connects to its pedagogical orientation. First, the design of our space is self-consciously non-hierarchical and conducive to group discussion. We use a circular seminar room (our sections have a maximum of 20 students) in which shared table space is organized in a horseshoe pattern. Professors McCorskey and McVetta agree this set-up is ideal for facilitating student-to-student interaction where notions of "right" and "wrong" answers are discouraged.<sup>7</sup> Second, the setting of the Language Center coheres to the "Writing Across the Curriculum" movement in legal education: the Library is a

.....  
*Our work in the Language Center  
is relevant not only to law schools  
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can also be adapted to the burgeoning  
population of foreign-educated J.D.  
students at U.S. law schools.*  
.....

communal student space, and our location helps to underline the fact that improving one's written and oral English is essential to all aspects of the foreign-trained LL.M. student's educational experience.<sup>8</sup>

## B) Forming a Discourse-Based Curriculum

We differ from other writing centers in our approach, expected student buy-in, and faculty composition. These factors tend to make the LL.M. student population invested in the writing process and motivated to improve their oral and written communication skills.

Many Legal English programs tend to focus on either the "basket of skills,"<sup>9</sup> i.e., legal reasoning and analysis, or English-as-a-Second Language (ESL) skills, i.e., vocabulary and grammar. Both of these approaches lack a vital component: information about the actual context in which the LL.M. students need to function. According to Professor Hoffman, these programs often fail to teach students how to produce the necessary legal texts because they "assume too much knowledge on the part of the students about social practices in the target discourse community."<sup>10</sup>

An example of assumed knowledge might be the difference between state and federal court systems, an important distinction for a common law attorney. At the end of their legal writing course, students may be unable to judge whether they have produced a satisfactory legal text<sup>11</sup> or not.<sup>12</sup>

The Language Center is, in contrast, informed by a discourse-based approach, in which law and linguistics are interwoven. Our approach takes the context, the American legal system, and the discourse community, the people who function in the American legal system, into account. Professors Hoffman and Tyler advocate that when LL.M.s are provided with important background knowledge and then given opportunities to read, analyze, criticize and produce authentic texts, they are able to understand and then function in an otherwise closed discourse community.<sup>13</sup> At Georgetown Law, the background information is

provided by the professors in the students' LL.M. courses. There are also opportunities to read and produce texts in these courses. The Language Center fills in the gap by giving the students opportunities to analyze, criticize, and then produce texts, with guided support from our faculty. This enables LL.M.s to raise their linguistic awareness of legal discourse. This discourse-based approach, along with best practices from teaching ESL, informs the pedagogy and design of the Language Center curriculum.

The professors' combination of expertise in law and language provides the students with high-quality instruction and content experts. The lawyer and the linguist team collaborate to create high-interest lesson plans based in best practices that focus on legal topics. Our cooperative lesson planning effectively engages the students and gives them exposure to the legal content and authentic texts using sound methodology.

*Providing low-key, low-risk opportunities for [foreign-trained LL.M.s] to discuss legal topics in English improves their ability to orally participate in other classes and work environments.*

In order to support our goal to help students understand and produce the legal discourse of an American law school, we require that students attend all the writing workshop sessions in order to receive written feedback (i.e., commenting services)

on their end-of-semester papers. This expectation of participation, or buy-in, gives students the tools they need while motivating them to use the process-based approach we teach in the writing workshop.

These distinctive aspects of the Language Center give the students a solid grounding in the skills and context needed for American law school.

## C) Educating, Not Editing

As the Language Center's writing workshops offer support for writing tasks that students' have been assigned in their LL.M. classes, one of the challenges is to transform how students view our written feedback on their papers. Many students initially think of the Language Center as a dry-cleaning service,<sup>14</sup> in which our faculty "clean" their imperfect papers, fixing

grammar and spelling mistakes. Our explicit goal, though, is to make the student a better writer rather than improve one piece of writing. This is reminiscent of Maimonides's familiar adage, "Give a man a fish and you feed him for a day; teach a man to fish and you feed him for a lifetime."

Our commenting style, including a pedagogic focus on discourse and the use of comment bubbles to explain rather than simply correct or point out errors, helps to obviate ethical and other concerns with redlining or rewriting student papers.<sup>15</sup> While we do provide some instruction and individual feedback on micro-level writing mechanics like grammar and syntax,<sup>16</sup> we explain the logic to such recurring issues in the hopes that students will self-correct these mistakes in later writing assignments. Our course design is centered not on editing student work, but on educating the student on the expectation of U.S. academic legal writing.

Many students come from rhetorical traditions that do not follow a linear organizational trajectory; "good" writing in their rhetorical traditions often will not reveal the main point of a piece of writing until the very end of the piece, if at all.<sup>17</sup> For these students, writing directly, such as by stating one's conclusion upfront, might feel headlong or indelicate. We provide targeted comments to help students locate the main, unifying theme of their paragraphs and to form strong topic sentences to introduce these themes while maintaining linearity. Another common recommendation is to ask the student to insert section headers to help guide the reader through a discussion section. Including a roadmap and using reoccurring word choices to form internal reference are ways for the student writer to build coherence.

The "I"-centric tenor of American academic culture is related to the scholarly requirement of prescriptive,<sup>18</sup> claim-based writing. In other academic cultures an "original contribution" to the literature might mean a new collation of ideas and facts. In the U.S. legal classroom, making an argument is instead the paradigm. We ask the student to submit early writer-based documents so we can provide iterative feedback to help them transform the logic of their paper from descriptive to prescriptive. A useful approach for this kind of commenting is to challenge students to ask specific "yes/no" questions that require a definite answer and justification for their position. If students explore an open-ended prompt ("What are the

territorial requirements associated with preventing crimes against humanity?"), they are more likely to take an undefined perspective and devolve into excursive background. Specificity helps encourage rigor and normative solution ("Should there be a territorial requirement for being obliged to prevent crimes against humanity?").<sup>19</sup>

Our feedback orients the students to a prescriptive writing model, while offering individual comments that help students develop their organization, logic and style.

### III. LOOKING TOWARD THE FUTURE

Our work in the Language Center is relevant not only to law schools with many international LL.Ms, but can also be adapted to the burgeoning population of foreign-educated J.D. students at U.S. law schools. The number of non-resident foreign J.D.s enrolled in U.S. law schools increased by 76% from the academic year 2004-2005 (1,809 enrolled) to 2014-2015 (3,193 enrolled). Even when adjusting for the fact that fifteen law schools opened during this time, the increase was still 73%.<sup>20</sup>

The Language Center started a pilot program to explore how to address potential needs of these students. The result was the Foreign J.D. Writing Workshop, taught by a lawyer and a lawyer-linguist and designed to supplement the 1L Legal Research and Writing class. The workshop each semester consisted of group sessions, comprehensive one-on-one meetings on student work product, and written feedback from Language Center professors on their ungraded memos and briefs. The goals were to address ESL-oriented grammar and style issues; reinforce what the students learned in their Legal Research and Writing classes; and provide a safe, nonjudgmental forum for students to ask questions and express concerns about adjusting to U.S. legal writing and academia. This year, the Language Center is further developing this nascent program. Linguists will conduct needs assessments of a subset of the foreign J.D. student population and then adapt the program around these assessed needs.

Given the growth of foreign law students in the U.S., the techniques employed by the Language Center could prove useful to many law schools with significant numbers of international students.

## NOTES

1. See *infra* Section II for a more detailed description of the discourse-based approach to language teaching.
2. Peter Tiersma, *What is Language and Law? And Does Anyone Care?*, in *LAW AND LANGUAGE: THEORY AND SOCIETY* 9, 10 (Frances Olsen, Alexander Lorz & Dieter Stein, eds., 2008).
3. Susan L. DeJarnett, *Law Talk: Speaking, Writing, and Entering the Discourse of Law*, 40 *DUQ. L. REV.* 489, 490 (2002).
4. Terese Thonus, *Tutors as Teachers: Assisting ESL/EFL Students in the Writing Center*, 13(2) *THE WRITING CENTER JOURNAL* 13, 14 (1993).
5. This kind of “metacognition” is fundamental to contemporary notions of constructivist learning, in which learners “construct” knowledge through experiences and subsequent reflection on those experiences. Michael Hunter Schwartz, *Teaching Law by Design: How Learning Theory and Instructional Design Can Inform and Reform Law Teaching*, 38 *SAN DIEGO L. REV.* 347, 376 (2001); for discussion of evaluation and Bloom’s taxonomy of education see also Pamela Lysaght & Christina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 *J. ASS’N LEGAL WRITING DIRECTORS* 79-81 (2004).
6. See Teresa Godwin Phelps, *The New Legal Rhetoric*, 40 *SW. L.J.* 1089, 1094 (1986).
7. James C. McCorksey & Rod W. McVetta, *Classroom Seating Arrangements: Instructional Communication Theory Versus Student Preferences*, 27 *COMMC’N EDUC.* 99, 103 (1978).
8. See Pamela Lysaght & Cristina D. Lockwood, *Writing-Across-the-Law-School Curriculum: Theoretical Justifications, Curricular Implications*, 2 *J. ASS’N LEGAL WRITING DIRECTORS* 73 (2004).
9. Craig Hoffman, *Using Discourse Analysis Methodology*, 1 *INT’L J. L. LANGUAGE & DISCOURSE* 1, 14 (2011)
10. *Id.* at 4.
11. We refer to text as any legal piece of writing that could be produced in an actual legal context, such as a memo, a brief, a law review article, etc.
12. Cf. Kristen K. Robbins, *Paradigm Lost: Recapturing Classical Rhetoric to Validate Legal Reasoning*, 27 *VT. L. REV.* 483, 485 (2003).
13. Craig Hoffman & Andrea Tyler, *United States Legal Discourse: Legal English for Foreign LL.M.S* (2008).
14. This is informed by a conversation with Professor Craig Hoffman at Georgetown Law.
15. Kathleen Tarr, *Teach a Law Student to Fish: A Tutor’s Perspective on Legal Writing*, *U.S.F. L. REV. FORUM* 53, 54 (2015) (agreeing that reference to a constructed discursive audience can help mitigate ethical concerns of interfering with the more specific “audience” of the student’s professor).
16. Belmont Professor Eric Hobson suggests that pragmatically all writing centers should make use of positivist, expressivist and social constructionist theories of writing. *E.g.*, Kristen E. Murray, *Peer Tutoring and the Law School Writing Center: Theory and Practice*, 17 *LEGAL WRITING: J. LEGAL WRITING INST.* 161, 172 (2011).
17. Robert B. Kaplan, *Cultural Thought Patterns*, in *LANDMARK ESSAYS ON ESL WRITING* (2013).
18. In this context, *prescriptive* refers to argument or claim-based writing, not the linguistic understanding of *prescriptive v. descriptive approaches to grammar*.
19. See, e.g., María Luisa Piqué, *Beyond Territory, Jurisdiction, and Control: Towards a Comprehensive Obligation to Prevent Crimes Against Humanity*, in *ON THE PROPOSED CRIMES AGAINST HUMANITY CONVENTION* (Morton Bergsmo & Song Tianying, eds., 2014) (the author began work on this article when a participant in the Language Center, and her article serves as a model authentic text).
20. This information was compiled by a Georgetown University Law Center librarian, using the following sources: American Bar Association Standard 509 Information Report for 2014, ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, <http://www.abarequireddisclosures.org/>; see also Archive of Official ABA Data, <http://www.lisac.org/lisacresources/publications/official-guide-archives>; Official guide to ABA-approved Law Schools, Law School Admission Council.



# Why Online Resources Won't Replace Writing Specialists—At Least Anytime Soon!



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When it comes to getting writing help, students have lots of choices. They can hunker down with a style book, camp out in their professor's office, or pepper the class TA with questions. And in schools where they are available, students can work with a Writing Specialist.

When it comes to digital options, students can choose from online learning tools like Core Grammar,<sup>1</sup> reference websites like the OWL<sup>2</sup> or even proofreading software, like Wordrake,<sup>3</sup> or Grammarly.<sup>4</sup> Online resources have many benefits—including a student's ability to access them at 3:00 o'clock in the morning before a paper is due. But as popular as digital resources become with our digital native students, they'll never replace Writing Specialists. Here are some reasons why.

Even the best online resources are limited in what they can teach. Most give grammar, punctuation, or style rules; some can diagnose grammar problems; some even include an interactive component. Writing Specialists also discuss grammar, punctuation, and style with students; diagnose students' writing issues; and offer help in an interactive way.

But that's where the similarities end.<sup>5</sup> Because not only are Writing Specialists human (which, the fear of AI aside, digital programs are not—at least not yet), but Writing Specialists go far beyond what those programs can do. Just for starters, we help students with so much more than grammar, punctuation or style. We discuss synthesis and precision. We explore organization, persuasion, logic, and "flow." We confer with students about their professor's expectations, and we brainstorm ways for students to improve their writing on their own. So what we teach is different.

How we work with students is also different.

When Writing Specialists sit face-to-face with students, we can gauge a student's understanding and also adapt the *form* of our instruction. If students' eyes glaze over when we start talking about CREAC or paradigms of proof, we can take out a sheet of paper and diagram CREAC. Or we can help students find the paradigm of proof in their own drafts. Perhaps most importantly, as we work, we engage students in a dialogue about legal writing. That dialogue gives us a deeper understanding of not only what a student's writing issues are, but WHY the student is having those issues in the first place. And that's key to actually solving them.

**Take, for example, this conversation:**

**WS:** I notice you're using a lot of passive voice in this section.

**Student:** I know. My professor hates passive voice. But [said sheepishly] I don't really know what it is.

**WS:** Oh, no problem. Let me show you how to find it in your paper and how to fix it.

**Or this one:**

**Student:** I'm really worried about this paper. My professor told me I need to make my precedent case explanations more concise, but I don't know how.

**WS:** Well, I see that you include lots of detail. The holdings seem to get buried in all the facts.

**Student:** But I thought we're supposed to list all the facts, like I do for my case briefs.

**WS:** Well, that's one approach. But your reader is really interested in the essential facts—facts that the court considered important, facts that you'll compare with your client's facts, facts for context.

**Student:** Oh. Really? That makes total sense! And it will make my papers a lot shorter!

An online resource wouldn't understand why passive voice was occurring or why case explanations were overly long. And it certainly wouldn't understand that one student was sheepish or that another student was worried. But a Writing Specialist does understand.

That's another advantage that Writing Specialists have over online resources. As living, breathing, human beings (who've had our own fair share of sheepish moments and worries), we empathize with students. And that encourages them to open up. Through dialogue about legal writing, students often confide their fears, anger, or angst. They tell us about their struggles and failures, and also about their goals and aspirations—even those unrelated to legal writing. And in response, we act not only as their writing advisors, but as their sounding boards, coaches, and cheerleaders. We listen empathetically, tailoring our responses to each student's immediate needs.

So, Writing Specialists teach in an empathetic, hands-on manner. And we teach a whole lot more about legal writing than online programs do. We also differ in how expansive our roles are—both within our home institutions and outside of them.

In the Second Draft's LWI 25th anniversary issue, Anne Enquist writes about the history and roles of Writing Specialists. She lists the "wide range of contributions" that Writing Specialists make in their own schools.<sup>6</sup> Those contributions include holding group workshops, sharing expertise with faculty and administrators, directing or working with academic support programs, acting as advisors for student

[W]e engage students in a dialogue about legal writing. That dialogue gives us a deeper understanding of not only what a student’s writing issues are, but WHY the student is having those issues in the first place. And that’s key to actually solving them.

journals, teaching classes—including advanced legal writing classes and classes for international students, serving as associate directors and directors of writing programs, assisting in faculty development programs, and running legal writing events and conferences.<sup>7</sup>

Outside our home institutions, Writing Specialists’ contributions are equally impressive. We are presenters and keynote speakers at LWI conferences, board members and members of LWI’s many committees, and editors and contributors to LWI’s publications.<sup>8</sup> Writing Specialists also have an impact beyond LWI. We present at non-LWI conferences, we teach legal skills abroad, we train law firm associates in the art of legal writing . . . and we also write. Anne mentions our “impressive array of books and articles”—covering topics from legal writing pedagogy to “ground-breaking work in legal reading and academic legal writing.”<sup>9</sup>

Now, please indulge me while I make one final comparison. While the number of online programs may be growing, the ranks of Writing Specialists are growing even more rapidly. In 1984, the year LWI was formally created, only a handful of schools had Writing Specialists. Now nearly 60 do. And each year, we are adding new members to the recently-created Association of Legal Writing Specialists.

Our numbers are on the rise because of the way we teach and the roles we play within and outside our institutions. But our numbers are also growing because students’ skills are declining. Many students are writing less before entering law school or are entering with lower indicators. These students will have an ever greater need for legal writing help—especially as law firms and the ABA demand “practice-ready” graduates. But perhaps equally important, as more teaching goes digital, students will have an ever greater need for an empathetic, living, breathing person to act as their coach, sounding board, cheerleader, and advisor.

Online programs can play a valuable role in student learning. And one day, they may even have AI. But until they do—and even if they do—they’ll never be a substitute for a Writing Specialist.

(If you have questions about Writing Specialists, feel free to reach out to me or any other ALWS member.)

## NOTES

1. Core Grammar for LawyersSM is “an online, self-directed learning tool designed to help law students, pre-law students, paralegal professionals, and practicing attorneys acquire the grammar and punctuation skills that are prerequisites to successful legal writing.” <http://www.coregrammarforlawyers.com/> (last accessed 11/16/15).
2. Online Writing Lab (OWL) at Purdue University “houses writing resources and instructional material, and . . . provide[s] these as a free service of the Writing Lab at Purdue.” <https://owl.english.purdue.edu/owl/> (last accessed 11/16/15).
3. Wordrake “is a proofreading software editor for Microsoft Office.” <https://www.google.com/search?q=Wordrake&ie=utf-8&oe=utf-8> (last accessed 11/16/15).
4. Grammarly® “is the world’s most accurate grammar checker. [https://www.grammarly.com/?utm\\_term=grammarly&q=brand&gclid=CImDiq3qlckCFYQ8aQodLI0Ktg&utm\\_campaign=Brand&utm\\_medium=cpc&match-type=e&placement=&utm\\_source=google&utm\\_content=52804490166&network=g](https://www.grammarly.com/?utm_term=grammarly&q=brand&gclid=CImDiq3qlckCFYQ8aQodLI0Ktg&utm_campaign=Brand&utm_medium=cpc&match-type=e&placement=&utm_source=google&utm_content=52804490166&network=g) (last accessed 11/16/15).
5. Of course, Writing Specialists aren’t really anything like online programs. But I hope you’ll bear with me, just for the fun of it, while I compare and contrast the two.
6. Anne Enquist, *The Role of Writing Specialists in the First 25 Years of the Legal Writing Institute*, 24 (2) THE SECOND DRAFT (Spring 2010) also available at [http://lwionline.org/uploads/FileUpload/LWI\\_SecondDraft\\_Spring2010%282%29.pdf](http://lwionline.org/uploads/FileUpload/LWI_SecondDraft_Spring2010%282%29.pdf) (I’ve expanded Anne’s list a bit to reflect the contributions Writing Specialists are currently making at their home institutions.)
7. *Id.*
8. *Id.*
9. *Id.*

# The Disembodied Rule and the Rule Made Flesh: Propositions, Illustrations, and the Placement of Citations



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The placement of citations<sup>1</sup> in legal writing may seem beneath discussion, a subject too obvious to warrant attention, but it is a persistent problem for student legal writers. Misplacement of citations is a common impediment to clear student writing.

Because readers of legal writing are usually looking for legal rules, it is best to provide those rules upfront and to let a subsequent citation provide information about the source. Generally, citations should be placed following a rule statement, rather than placed before the rule statement. Over and over, I tell students, “tell me the law, not the source. Then let the citation tell me the source. Unless there is a good reason to write first about the court or courts at issue, emphasize the principles the courts are describing.” Nonetheless, they insist on writing, “In *Burr v. Hamilton*, the court stated . . . .” More often than not, that gets in the way. That delays the point. That is clutter.

## Accordingly, this:

**“[M]ost litigation in the antitrust field is complex.” *La Buy v. Howes Leather Co.*, 352 U.S. 249, 259 (1957).**

## is preferable to this:

**In *La Buy v. Howes Leather Co.*, 352 U.S. 249, 259 (1957), the United States Supreme Court said, in dictum, that “most litigation in the antitrust field is complex.”**

The greater portion of the words in that sentence do not move the analysis forward, and provide little useful information.

One of the problems with teaching proper placement is that when they read cases, students often see judicial writing that includes sentences and paragraphs beginning with citations. They know it happens sometimes, they just don’t know when or why. The solution I’ve developed is to tell them that when the rule is their topic, leave the citation at the end. When the case itself is the topic, however—its facts, its reasoning—they may begin by naming the case.<sup>2</sup>

**For example, when a legal writer is setting forth the rule on felony false imprisonment in California, she should write:**

**“Violence” means “force over and above the force reasonably necessary to effect such restraint.” *People v. Babich*, 14 Cal. App. 4th 801, 806 (1993)**

The law/definition is set forth, then a citation is provided to indicate its source. Students, however, frequently want to write this with the citation at the front of the sentence:

**As set forth in *People v. Babich*, 14 Cal. App. 4th 801, 806 (1993), “[v]iolence” means “force over and above the force reasonably necessary to effect such restraint.”**

This is not easily readable. It delays the reader from understanding the issue. So why do it? Students do it because they have seen it. Some sentences in legal writing begin with citations. We need to explain to students when that should happen, and when it shouldn't.

### **When Should a Citation Follow?**

Generally, a citation should follow any proposition of law, any statement of the rule. Early in any legal analysis, the legal writer will set forth the language of the pertinent rules. Propositional rule development occurs in the portion of the rule where the writer provides statements of law made by courts, disentangled from the factual details of the cases. If the legal proposition is set forth independent of the details of the particular case, that proposition should be set forth first, followed by the citation:

**Expert testimony on damages is inadmissible if it is based on speculation. *Sterling v. Cooper*, 234 Cal. App. 2d 567, 569 (1973).**

Because this is a proposition of law, it transcends the particular case, and should appear before the citation.

Is this rule hard and fast? No. Like most legal writing principles, there are variations and exceptions. For instance, if a tremendous change occurred in the law, we might note that by leading with a citation:

**In *Leegin Creative Leather Products, Inc. v. PSKS, Inc.*, 551 U.S. 877 (2007), the Court held that the rule of reason should apply to cases alleging vertical price restraints, reversing a century-old doctrine holding that those restraints were illegal per se.**

This sets forth a proposition, but does so with a citation at the fore. This is permissible because the case itself becomes part of the story. The information is not only about the law, but about the case itself.

## When Should a Citation Lead?

A citation may lead a sentence when a case illustration is being used. Once a legal writer has set forth the propositional rule content on which she will rely, she may subsequently determine that illustrations would be useful to further explain the rule, to flesh it out. It may be helpful to show the rule in action, or to show how a sub-rule may effect an outcome. Using the propositional rule and exception of “thou shalt not kill, except in self-defense,” we can see the value of using an illustration. When will self-defense be found? What does it look like?

### To instruct the reader, a legal writer might follow the rule with an illustration:

**“For instance, in *State v. Arthur*, the defendant relied on self-defense as justification, and was acquitted of murder. An attacker swung a mace at the defendant, who speared the attacker to avoid being injured by the mace.”**

This shows the rule in action, and further defines what “self-defense” means, by way of discussing the specifics of the case. In this circumstance, the citation may lead.

Illustrations can demonstrate the parameters of a rule, and are often useful to show contrast. Continuing with the self-defense example, the illustration above might be followed with another: “In *State v. McCoy*, however, where a lemon rind was thrown at the defendant, and he responded with a shotgun blast, self-defense was not found.” Again, the specifics of the case are the subject, and the citation may introduce the information.

### Of course, citations used in illustrations may introduce not only sentences, but entire illustrative paragraphs:

**In *Smith v. Jones*, 123 Cal. App. 3d 456 (1985), the expert’s damages calculation was held too speculative to be admissible. The expert’s model assumed business growth of 25% a year, without explaining why that percentage was likely, or even possible. *Id.* at 458. The court ruled that such an unsupported opinion was inadmissible under *Frye*, and ruled that the expert could not testify regarding the damages plaintiff allegedly suffered. *Id.***

Again, a legal proposition is being explained, fleshed out, using the particular case as an example. Since the details of the case are the topic, we may begin with the citation.

In setting forth a propositional rule and illustrative explanations of the rule, following citations can, of course, be combined in a paragraph with leading citations. In this example, various legal propositions are set forth, with citations following them.

**At the end of a paragraph, an illustration is used, and the citation is successfully integrated at the beginning of the sentence:**

Gross negligence is “a form of negligence where the facts support substantially more than ordinary carelessness, inadvertence, laxity, or indifference.” *Hunter*, 413 F. Supp. 2d at 519 (quoting *Legion Indem. Co. v. Carestate Ambulance, Inc.*, 152 F. Supp. 2d 707 (E.D. Pa. 2001)). It will be found where a defendant’s behavior is “flagrant, grossly deviating from the ordinary standard of care.” *Hunter*, 413 F. Supp. 2d at 519-520 (citing *Legion Indem. Co.*, 152 F. Supp. 2d at 707). In *Hunter*, the court found gross negligence where a plaintiff alleged damage to a protected work and that the defendants, after being notified, did not take any steps to remedy the situation. *Id.* at 520.

It may seem silly to need a set of principles governing something as simple as citation placement, but experience teaches that there is nothing intuitive or automatic about how citations are used within a sentence or paragraph. Students see different uses in their reading, but do not perceive any systematic differences in those uses. A rule can get students on the right path. When setting forth the platonic, disembodied rule, the citation follows. When writing about a particular case—the rule in the flesh—the citation may lead. There are exceptions, but like many exceptions, they will be learned and incorporated over years of practice. An initial default rule is helpful to get student writing quickly in line with professional norms of citation usage.

NOTES

1. This article focuses on case citations, rather than other types of authority, but similar rules should apply to those, as well. This article also presumes the use of in-text citations, as is the norm in California and many other jurisdictions. Some legal writing commentators prefer citations to appear in footnotes. See *Where Should the Citations Go?* Joseph Kimble *Michigan Bar Journal*, Vol. 89, p. 56, July 2010.
2. At the risk of confusing the issue, an alternative characterization is that when setting forth what the rule is, the citation should follow. When setting forth details about the rule, the citation may precede.

# It's a Matter of Degree: Different Credentials can Provide a Diversity of Perspectives



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When I first started at MSU Law as the Writing Specialist in 2006, I had several questions about “the basics” of legal writing pedagogy. I was finishing my Ph.D. in the cumbersomely-named Critical Studies in the Teaching of English, and I had never attended law school. What I lacked in specialized legal knowledge I made up for, I hoped, in my ability to adapt to different discourses and my ability to examine and question educational practices, especially those that had risen to the level of being “natural.”

In my early office appointments with students, I kept commenting on long sentence fragments posed as statements at the beginning of papers. Curiously, all of the fragments began with the word “Whether.” When I brought up the issue to students, they replied, cautiously, that this was exactly how their professors had told them to write these sentences. The not-quite-a-sentence and not-quite-a-question, I learned, was called the Question Presented.

Seeking to understand, I posed the question to several of my legal writing colleagues: “Why do we write Questions Presented as fragments?” The answers surprised me:

“It’s just how it’s done.”

“It’s just one of those things you learn in your first year of law school.”

“It’s a lawyer thing...don’t worry about it.”

“I have no clue.”

When I asked if framing questions presented as “whether” statements was confusing to other non-lawyers, some of my colleagues had not considered the question before. Now, as I approach the end of my first decade of working in legal education, far fewer of the student papers I see contain questions presented framed as fragments. I know I did not cause this change in our legal writing program, but my status as an “outsider” allowed me to ask what would be viewed as a naive question if it came from someone with a law degree. What I hope to illustrate through this story, and ultimately with this essay, is that an outside perspective can be helpful in identifying alternative solutions to problems and questioning orthodoxies. Within the discipline of legal writing and legal education more generally, writing specialists—who often have unique, specialized backgrounds in linguistics, education, English, and other disciplines—can provide a different perspective that can help solve problems that face students and legal educators.

I do not stand alone as a non-law-degree Legal Writing Specialist. A 2011 survey conducted by Rose Larizza, Writing Specialist at Florida Coastal Law, on behalf of the Association of Legal Writing Specialists (ALWS) indicated that of 25 total respondents, only eight

possessed a Juris Doctor degree. Meanwhile, eight had Ph.D.s, one had an Ed.D., and eight possessed either an M.A. or M.F.A. degree. Based on this survey, 68% of Writing Specialists nationwide, the clear majority, have advanced credentials other than law degrees.

Despite knowing that I am not alone among writing specialists in my academic preparation, I still wondered how my lawyer colleagues viewed my credentials.

I doubt I am alone among my Writing Specialist colleagues in this curiosity. But how does this difference of credentials factor as a benefit to legal education and law students? Joan Howarth, Dean of MSU Law, responded simply and succinctly to my anxiety about being the only member of our faculty without a law degree: “Diversity comes in many forms, and diversity is important.”

And she’s right: the challenges that face legal education need innovative and creative solutions. Writing Specialists are uniquely positioned in legal education to help address many of these concerns.

How do we teach students who have less of a background with academic writing than previous generations of law students? Writing Specialists who have taught in English, composition, or rhetoric can help these students with clear expression in English, independent of content. “It’s a lawyer thing” as an excuse for unclear prose rarely flies with a Writing Specialist.

How do we best serve the greater number of students whose first language is not English who are entering the legal academy, both in J.D. and LL.M. programs? Many Writing Specialists have degrees in linguistics or TESOL and can work directly with students to adapt to the rigors of law school and can help faculty adapt to the changing demands presented by these students.

How should law schools respond to an increased number of students with diagnosed learning disabilities who have utilized Individualized Education Plans (IEPs) for most of their academic careers? Writing Specialists, based on my interactions, are more likely to have degrees in education and worked in secondary or undergraduate classroom environments; these educators can help administrators with compliance and professors with learning and scaffolding strategies.

How do we design curricula and assessments that effectively measure student learning and how do we adopt pedagogical approaches that are responsive

to developments in cognitive science and learning theory while retaining the values of the legal academy? Writing Specialists with backgrounds in education, curriculum design, and assessment can be an invaluable resource to law schools as the ABA revamps its standards for assessment. For example, the coursework I did as an M.A. student in Education at the University of Denver allowed me and my colleague Daphne O’Regan to design and implement a cohort study of almost 1500 first-year law students and their journey to adapt to the changing linguistic demands of legal education and the practice of law.

How can legal educators improve one-on-one interactions with students outside of class? Writing Specialists, generally, spend significant amounts of time working individually with students. Many Writing Specialists have worked in writing centers and studied writing center pedagogy and are uniquely suited to help faculty develop effective and principled interactions with students.

Perhaps the best descriptive word for Writing Specialists is “versatile.” Think of a Writing Specialist as an outside consultant who is already “inside” the law school. Studies have found that institutional diversity and varied perspectives can lead to increased creativity and productivity. The diversity of credentials and professional experiences writing specialists possess is an asset both to legal writing programs and to a law schools.

As “outsiders” who are invited “inside” law schools, the burden falls on Writing Specialists whose credentials come from outside the law to educate faculty within our buildings, our programs, the LWI, and the legal academy about the work that we do, how that work is similar to and differs from traditional law school pedagogy, and how we can contribute to the goals of legal education. Though writing programs and law schools hire writing specialists for reasons that are different than the potential benefits listed in the job description, my hope is that legal education is able to embrace the myriad talents of my Writing Specialist colleagues.

# Contrastive Conversations with International Students of Law



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For many international students of law, especially those who come to U.S. law schools having trained abroad as lawyers and law professionals, learning to write for U.S. legal audiences poses a great number of challenges. Some of these relate to differences in writing conventions and rhetorical preferences, and some to the limitations and characteristics of language itself. If you teach or work with international graduate students of law, you know this difficulty.

As an illustration, in my American Legal Systems and Method class, I recently had a conversation with international LL.M. students about differences among legal writing conventions. Students in this class received their original legal training in countries all over the world, including Russia, France, the Philippines, Uganda, Afghanistan, and Korea, to name just a few. We were reviewing the structure of the classic, U.S.-style, predictive interoffice memo, including the role of the “short answer.” Several students remarked that this convention would look strange to practitioners in their home legal writing communities, where legal writers would rarely announce their conclusion so directly at the head of a memo. Many agreed that, from their perspectives, a conclusion does not belong at the beginning of a memo

because “nothing has been proven yet.” One student laughed, adding that if she announced her conclusion at the outset, no one would bother reading the memo to its end. And yet, in U.S. legal writing culture, we consider the short answer an essential tool that helps the reader understand the writer’s proof and, ideally, inspires the reader to read on (acknowledging that it may also help a time-pressed reader skip reading the body of the memo). It also comports with our deeply rooted, rhetorical preference for linear arguments that begin with a thesis statement, offering a position or claim to be supported in the body of an essay.

Such conversations confirm that international students need meaningful and contextualized opportunities to make discoveries about differences between the writing they have been trained to produce and the writing they are expected to produce in the U.S. Access to Legal Writing Specialists (“Writing Specialists”) can provide these critical opportunities. Writing Specialists, who meet with students one-on-one, are in a unique position to engage students in individualized assessment, examine student writing closely, and determine which writing conventions and practices may be affecting their efforts to produce U.S.-style legal writing.

While Writing Specialists have long valued and practiced the art of talking with law students, for those of us who work with international students, familiarity with studies in linguistics and second language acquisition can help facilitate these kinds of contrastive conversations, exchanges in which students compare what they know with the conventions they’re being taught. Among these

studies, findings and methods from contrastive rhetoric and discourse analysis offer excellent fodder for such comparisons, especially for talking with students who come to English as a second (or third, or fourth. . . ) language. Once Writing Specialists gain a basic background in contrastive rhetoric and how it has evolved, they can and should begin to extend those contrastive methods to other culturally and linguistically influenced aspects of writing, such as the meaning and use of transitional words and phrases,<sup>2</sup> expectations about attribution and paraphrasing,<sup>3</sup> or other writing conventions and linguistic perspectives. This short article hopes to provide an introduction to that background and to illustrate some ways that contrastive analysis, in general, can help Writing Specialists do what they love to do: have dynamic and productive conversations with students.

Generally inspired by what linguists call the Sapir-Whorf Hypothesis—or the idea that language influences thought—early contrastive rhetoricians like Robert Kaplan<sup>4</sup> set out to explain perceived differences in the rhetorical preferences or logical systems that seemed to influence how native speakers and non-native speakers of English organize ideas in English writing.<sup>5</sup> Kaplan found that “each language and each culture has a paragraph order unique to itself, and that part of the learning of a particular language is the mastery of its logical system.”<sup>6</sup> He maintained that these logical systems were evident in characteristics like linear or non-linear structure of paragraphs (e.g., expecting and valuing digression versus sticking to the point); preferences for either hierarchy and subordination or coordination and parallelism; and so on.<sup>7</sup> Successful academic English writing, he explained, reflects influence by Anglo-European culture, including linear methods of deductive and inductive reasoning as used by ancient Greek philosophers and later Roman and Medieval European scholars.<sup>8</sup> Ultimately, Kaplan suggested that his observations had important pedagogical implications for English as a Second Language (ESL) instruction: that contrastive analysis of one’s native logical system and the target logical system—the process of examining differences and variations in how ideas are developed and supported in each—contributes to more effective language learning.<sup>9</sup>

Since Kaplan’s original work, studies in contrastive rhetoric have evolved, now acknowledging that rhetorical preferences of different linguistic and

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cultural communities cannot necessarily be reduced to neat formulas or discrete influences.<sup>10</sup> Writers are not simply members of separate, identifiable cultural groups, subscribing wholesale to a finite set of rhetorical preferences.<sup>11</sup> Instead, they are “individuals in groups that are undergoing continuous change.”<sup>12</sup> Further, within any linguistic and cultural community, or discourse community, these preferences also vary from genre to genre.<sup>13</sup> As to genre, we see this variation in the U.S. legal discourse community: compare the register and rhetorical style of persuasive brief writing, for example, with that of letters or emails to clients.

With these developments in contrastive rhetoric, writing pedagogy in the fields of ESL and English for Specific Purposes (ESP) has begun to emphasize not only how culture influences a writer’s organization of thought, but also how individual life experiences, multiple literacies, and varied educational backgrounds also affect choices in writing.<sup>14</sup> Indeed, many international law students come to U.S. law schools as multi-linguals; among those students, many have lived and studied abroad; and especially among international graduate students of law, most are already lawyers, fully trained in another legal system with its own writing preferences and expectations. And like all students, international students bring a lifetime of exposure to multiple writing genres, each with its own writing conventions and characteristics. As a result, the rhetorical preferences of typical international students reflect a complex web of influences.

This complexity should not be cause for alarm; it

suggests that international student writing is not static. In fact, most international students are nimble when it comes to navigating differences in language and culture because most have been repeatedly called to do so throughout their lives and educations.

Their rhetorical perspectives and preferences evolved and changed before entering law school in the U.S., and they will continue to do so throughout their academic and professional careers. Because of this exposure, they may actually be at an advantage when it comes to understanding the subtle distinctions in rhetorical preferences and linguistic variations among legal writing cultures, in general.

To develop self awareness, international students need meaningful opportunities to compare and contrast their unique perspectives, including the various ways they have been personally influenced, with the preferences of the target writing community and audience (for our students, U.S. legal audiences). Among these opportunities, students need explicitly contrastive discussions and analyses that enable them to explore the reasons behind the rhetorical choices they currently make and the choices we are asking them to make as U.S. legal writers—explorations that value and acknowledge the perspectives that students bring.

This is where Writing Specialists can be particularly useful: While the classroom is a wonderful place to begin talking about rhetorical preferences more generally, these discrete individual explorations belong most comfortably in individual writing conferences. *In the safety of a one-on-one conversation with a trusted Writing Specialist, a student can explore the unique and complex set of rhetorical influences that have affected her own writing without feeling that she is making an entire class of students sit and listen to her process.*

To do this work, a Writing Specialist need not research or memorize the particulars of the writing preferences of any one cultural or linguistic writing community. Students are best equipped to supply that information themselves; and in fact, they are the only experts on their own, individual rhetorical perspectives and the various traditions that have affected their own writing. What professors and writing advisors need is an ability (1) to name and explain the ways that U.S. lawyers develop and organize ideas and the traditions and reasons behind the expectations we teach students to meet; (2) to “issue spot” when students seem to deviate from those expectations; and (3) to

ask provocative questions that lead students down a productive path of contrastive analysis aimed at revealing how the target expectations may be different from the ones the student is accustomed to meeting.

Nevertheless, this third point may be difficult to achieve without some kind of tool to quickly create a shared understanding of what rhetorical preferences are and how they may differ across writing cultures. To bridge this gap, Anne Enquist recommends referring to the rhetorical preferences chart available in both *Just Writing: Grammar, Punctuation, and Style for the Legal Writer* and in *The Legal Writing Handbook*<sup>15</sup> This chart separates rhetorical preferences into linguistic groups, and it accounts for various writing preferences such as common analytical patterns, styles of introductions, tolerance or expectation for digressions, and so on. In my own work as a Writing Advisor I have used this same chart to help students identify and describe the various influences on their writing preferences. This kind of discussion helps students understand how and why they write the way they do, and it helps them see the adjustments needed to satisfy the expectations of U.S. legal audiences.

For most international students, this kind of discussion is both welcome and intuitive. In fact, because international students tend to be accustomed to writing cross-culturally, learning to produce writing that conforms to a new rhetorical style may be one of their more familiar tasks.<sup>16</sup> Other skills, like mastering linguistic differences in meaning and use of cohesive devices, for example, may be more difficult, requiring a higher level of self-awareness and attention. In fact, studies in text analysis and second language acquisition show that even advanced non-native speakers of English struggle to understand and use cohesive devices in English,<sup>17</sup> making this skill among the last that advanced students seem to master.

Some linguists attribute this difficulty to first language transfer, maintaining that students tend to transfer the meaning and use of cohesive features from their native languages into their English writing.<sup>18</sup> This practice can lead to misuse, underuse, or overuse of cohesive devices in the target language because, like larger rhetorical patterns, meaning and use of cohesive devices varies across languages and cultures.<sup>19</sup> Others may attribute it to ineffective language teaching techniques or simply the process of learning a new

language.<sup>20</sup> Regardless of the reason for the difficulty, using cohesive devices in unconventional or incorrect ways can interrupt or misdirect readers and result in an appearance or experience of choppiness or lack of logical flow—even when the ideas presented are otherwise logical and conform to a target audience’s rhetorical expectations.<sup>21</sup> This outcome can be aggravating for international students of law who attempt to write in the U.S. legal rhetorical style, a style that favors clarity, conciseness, directness, and linear logical structures, qualities that are undeniably supported by effective use of cohesive devices.

In my own role as a Writing Advisor, contrastive discussions about cohesive devices have led to some important revelations and progress with international students. Some of the most interesting of these have come from talking with Afghan students about the cohesive connector “on one hand . . . on the other hand.” As background, since 2009, I have had the privilege of working as a Writing Advisor with Afghan students at the University of Washington School of Law. Soon after I began this work, I started to notice that Afghan students were using “on one hand . . . on the other hand” in grammatically appropriate ways, as logical connectors; however, they often used it for simple adding—not to signal the contrast or contradiction that native speakers of English would usually expect. Here is an example from a student’s paper:

Although the new Code of Criminal Procedure solves some of the problems that existed prior to its ratification, absence of the trial avoidance procedures, on the one hand, and dissatisfaction of the parties to the trial, on the other hand, [have prevented] the code from dealing with [] court backlogs and lengthy trials.<sup>22</sup>

A native speaker of English might read right over this sentence without much hesitation. It is generally grammatically correct, after all—and the ideas are informed and insightful. However, a careful reader will wonder what contrast the writer expected us to find between “absence of the trial avoidance procedures” and “dissatisfaction of the parties to the trial.” Readers will not find any contrast, and in fact, none was meant.

A careful Writing Specialist, however, will not only notice this non-native use, but will engage a student in a productive and contrastive discussion about the reasons behind the use. Through several individual,

contrastive conversations (and emails) with different Afghan students, we all learned that, while there is no Dari connector that translates directly to the English connector, “on one hand . . . on the other hand,” there is an ostensibly similar connector, “Az yak so . . . Az soyi digar,” which translates to “on/from one side . . . on/from the other side.”<sup>23</sup> Several of my Afghan students have explained that “Az yak so . . . Az soyi digar,” while primarily a contrastive connector, is also used as an additive connector—adding two equally significant facts without necessarily asking the reader to find contrast.<sup>24</sup>

Ultimately, these contrastive discussions, which required no special training in Dari on my part, resulted in our collective realization that this particular connector has a wider range of acceptable uses in Dari than it does in English. As a result, when Afghan writers transfer their Dari sense of appropriate use when using “on one hand . . . on the other hand,” they will confuse readers whenever they use it for adding. All it required from me was to spot the misuse, to ask students what they know about their own language use patterns, and to help them compare those patterns to the expected use in English.

You don’t have to be a linguist to have these discussions. You only need to understand that your own writing preferences are linguistically and culturally influenced and to facilitate conversation aimed at understanding different perspectives on language and writing. These conversations can lead to great discoveries and learning with students—and this genuine process of discovery is at the heart of what Writing Specialist can offer international students.

#### NOTES

1. You can access my papers on the Social Science Research Network (SSRN) at <http://ssrn.com/author=2420791>. A special thank you to Nasiruddin Nezaami and Najibullah Hakimi for continuing discussions of “on one side . . . on the other side,” even after returning to Afghanistan. I am honored to call you colleagues and friends.
2. For an in-depth discussion of working on cohesive devices with international students of law, see my article *Beyond Contrastive Rhetoric: Helping International Lawyers Use Cohesive Devices in U.S. Legal Writing*, 26 FLA. J. INTL. L. 399, 405, 409 (2014).
3. Robin Nilon, *The Calculus of Plagiarism: Toward a Contrastive Approach to Teaching Chinese Lawyers*, 2 S.C. J. INT’L L. & BUS. 1 (2006).
4. Robert Kaplan, *Cultural Thought Patterns in Intercultural Education*, 16 LANGUAGE LEARNING 1 (1966).
5. See, e.g., Kaplan, *supra* note 1, at 1; Ulla Connor, *Mapping Multidimensional Aspects of Research: Reaching to Intercultural Rhetoric*, In CONTRASTIVE RHETORIC: REACHING TO INTERCULTURAL

- RHETORIC 301 (Ulla Connor et al. eds., 2008).
6. Kaplan, *supra* note 1, at 20.
  7. *Id.* at 15-21.
  8. *Id.* at 12.
  9. *Id.* at 21.
  10. See Carol Severino, *The "Doodles" in Context: Qualifying Claims About Contrastive Rhetoric*, 14 WRITING CTR. J. 44 (1993).
  11. See Ulla Connor, *Contrastive Rhetoric Redefined*, in CONTRASTIVE RHETORIC REVISITED AND REDEFINED 75, 76 (Clayann Gillia Panetta & G. Mahwah eds., 2001);
  12. *Id.*
  13. CONNOR, *supra* note 2, at 301.
  14. See Ken Hyland, *English for Academic Purposes and Discourse Analysis*, in THE ROUTLEDGE HANDBOOK OF DISCOURSE ANALYSIS 412, 413 (James Paul Gee & Michael Handford eds., 2012); see also Connor, *supra* note 9.
  15. Anne Enquist presented this idea at the 2015 Global Legal Skills Conference in Chicago. The charts are available in her texts that she wrote with Laurel Currie Oates, A E & C O, J : , , 307-12 (4th Ed. 2013); , : Book 7/Ch. 31 (6th ed. 2014).
  16. Notably, Eli Hinkel suggests that distinctions between top-down rhetorical preferences and analytical paradigms may even be disappearing. Eli Hinkel, *What Research on Second Language Writing Tells Us and What it Doesn't*, in HANDBOOK OF RESEARCH IN SECOND LANGUAGE TEACHING AND LEARNING VOL. 2, at 527 (Eli Hinkel ed., 2011), available at <http://www.elihinkel.org/downloads.htm>.
  17. See F. Dubin & E. Olshtain, *The Interface of Writing and Reading*, 14 TESOL Q. 353, 356 (1980). See also Vivian Zamel, *Teaching Those Missing Links in Writing*, 37 ELT J. 22, 25 (1983).
  18. Mohammed Akram A.M. Sa'adeddin, *Text Development and Arabic-English Negative Interference*, APPLIED LINGUISTICS, 10, 36 (1989); Joy Reid, *A Computer Text Analysis of Four Cohesion Devices in English Discourse by Native and Nonnative Writers*, 1 J. SECOND LANGUAGE WRITING 79, 80 (1992); Aisha Mohamed-Sayidina, *Transfer of L1 Cohesive Devices and Transition Words into L2 Academic Texts: The Case of Arab Students*, 41 RELC J. 253, 254 (2010).
  19. *Id.* See also Eli Hinkel, *What Research on Second Language Writing Tells Us and What it Doesn't* [hereinafter Hinkel, *What Research*], in HANDBOOK OF RESEARCH IN SECOND LANGUAGE TEACHING AND LEARNING Vol. 2, 528 (Eli Hinkel ed., 2011), available at <http://www.elihinkel.org/downloads.htm> (last visited November 27, 2015). Notably, Hinkel remarks that differences in top-down rhetorical preferences and analytical paradigms may be declining. *Id.* at 527
  20. See Hinkel, *What Research*, *supra* note 19, at 527.
  21. See Elizabeth R. Baldwin, *Beyond Contrastive Rhetoric: Helping International Lawyers Use Cohesive Devices in U.S. Legal Writing*, 26 FLA. J. INTL. L. 399, 406 (2014)
  22. This real example has been used with permission from Mr. Nasiruddin Nezaami. See email from Nasiruddin Nezaami to Elizabeth Baldwin (September 12, 2015)(on file with author). It comes from an early, rough draft of Mr. Nezaami's insightful article, "Designing Trial Avoidance Procedures for Post-Conflict Countries: Is German *Absprachen* an Appropriate Model for Efficient Criminal Justice in Afganistan?" (forthcoming in ILSA Journal of International and Comparative Law 2016). Mr. Nezaami completed his LL.M. at the University of Washington in August of 2015, and he is currently on the Faculty of Law and Political Science at Kabul University School of Law.
  23. Nezaami email, *supra* note 20; see also email from Najibullah Hakimi to Elizabeth Baldwin (September 11, 2015) (email following up on our many conversations about "on one hand" when he was an LL.M. student at the University of Washington School of Law) (on file with author).
  24. *Id.*

# Doing Good and Doing Well: When a Writing Specialist Does a Public Service and Creates a New Revenue Stream



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When the dean of my law school challenged the faculty to consider what each of us might offer in our law school's new Summer Academy designed for practicing attorneys, she said that the programming for the Academy would have two goals. First, we were hoping for some new revenue for the law school, and second, we were also hoping to perform a service for our local legal community by offering courses with more in-depth treatment than the typical CLE.

For me, as the Writing Specialist, what to offer was easy to imagine. Every year the Legal Writing Program at our law school gets numerous requests for one-on-one consultations with practicing attorneys who, for a variety of reasons, want to improve their legal writing. Sometimes a firm has identified writing as a weakness in an otherwise promising young associate; other times the attorneys themselves have come to realize that they want some coaching on how to improve their writing. With the need for individual consultations with practicing attorneys already obvious, all that we lacked was a good mechanism for advertising this service and collecting the fees. And we needed someone willing and able to do the individual consultations, and that someone was me.

Once the marketing responsibilities and fee collection procedures were set up through the new Summer Academy run by our CLE Program<sup>1</sup>, all we did to advertise the individual consultations was add a box on the Summer Academy brochure and website explaining what they were, how much they cost, and whom to contact for more information.

How the consultations work could not be simpler: I ask the attorney or firm to let me know their writing concerns and what they hope to accomplish. I then ask for redacted samples of the attorney's writing, which is the basis for the consultations. We schedule mutually convenient meeting dates and times, which are not necessarily in the summer like the rest of the Summer Academy offerings. I review the writing samples and formulate an agenda, or lesson plan, for each meeting.

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*After 35 years of teaching law students, most of whom are bringing me law school assignments that they are writing, it is refreshing and energizing to see “real” legal writing done for real clients and real judges. Thanks to the individual consultations with practicing attorneys about the writing they are doing for work, I feel like I’m refining my teaching repertoire so that it more closely addresses what actually works in practice and not just in theory.*  
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The one-on-one meetings are really no different from those I have with law students. Like good law students, the attorneys want to improve and many are even excited to have someone assess where they are as writers and give them practical advice about how they could be better. To a one, they have been eager to take what they learned in the first meeting and apply it to their next piece of legal writing. That next piece often becomes the basis for the second meeting, and so on.

As for logistics, thus far, our approach has been to offer three-session packages for \$750. Each session is ½ hour, and it typically takes me about an hour to prepare for each session. More than one of the attorneys has told me that he considers the individual consultations “a bargain,” and I think he is right.<sup>2</sup> Roughly four and one-half hours of work for \$750 means that even small firms, solo practitioners, and government offices can usually afford to sign up an attorney who needs the help. Being so affordable for the firms and attorneys, though, means that the added revenue for the law school is pretty small, particularly because I’ve limited the number of attorneys I work with at any given time<sup>3</sup>. Nevertheless, my dean continues to be delighted with the individual consultations because they also contribute to that other goal she articulated: a public service to our local legal community.

From my perspective, the individual consultations have been a rewarding experience. Although it can be a bit of a challenge to find the time to fit one more thing into an already busy schedule, I’ve come to realize that the individual consultations with practicing attorneys are beneficial for me and for my work with law students. After 35 years of teaching law students, most of whom are bringing me law school assignments that they are writing, it is refreshing and energizing to see “real” legal writing done for real clients and real judges. Thanks to the individual consultations with practicing attorneys about the writing they are doing for work, I feel like I’m refining my teaching repertoire so that it more closely addresses what actually works in practice and not just in theory. In short, this is the kind of win-win that we are often hoping for when we talk about doing good and doing well.

#### NOTES

1. One cannot earn CLE credit for one-on-one writing consultations, at least not in Washington State, so that point is clearly explained on the brochure and website.
2. Currently I am in discussions with our Dean and Associate Dean about whether we should consider moving to a sliding scale model to better accommodate the needs and ability to pay of different sorts of attorneys who might want the individual consultations.
3. Since we’ve started the individual consultations, I’ve never worked with more than three attorneys at any given time, and thus far we have been able to meet the demand and serve all the attorneys who have asked for consultations.

# Risk-Free Trial: Reviewing Writing Samples to Broaden Student Engagement



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Before making a commitment of any kind, you should try before you buy. This shopping ethos is not only prevalent but encouraged in law school, where upper-level students often attend several classes during the add/drop period to evaluate a particular professor or subject matter before settling on their course schedule. Because students tend to shy away from working with a writing specialist to engage in a regimen of issue spotting, organizational troubleshooting, and grammar exercises, I needed to entice students to “check out” my services. I had to make them an offer they could not refuse. So, to act as a gateway for other writing specialist consultations, I began reviewing writing samples for summer employment and clerkships.

## I. ORIGINS

Beyond teaching a section of the first-year Legal Practice Skills course and an upper-level Civil Pretrial Litigation class, I wanted to expand the influence of the legal writing faculty while also serving the greater law school community. So in early 2014, a

few months after I arrived at Penn, I pioneered the job of writing specialist to ensure that struggling students receive extra attention and assistance with fundamental writing skills. Having identified a gap in Penn’s offerings, I surveyed other schools’ programs to shape the scope of my role. Based on my research, my plan was to meet with students individually to diagnose deficiencies in their writing and to assist with organization, style, clarity, structure, grammar, punctuation, and usage. As is typical of most writing specialists, my goal was to offer guidance and craft exercises to help students improve their writing and self-editing abilities.<sup>1</sup> But because Penn’s first-year course is graded on an Honors/Credit/Fail basis, I was concerned that it might be difficult to find enough students inclined to take advantage of this opportunity to refine their communication skills beyond what they learn in the classroom.

## II. EXPANDING MY OFFERINGS:

To drum up more business and broaden my appeal, I decided to take some inspiration from modern-day writing centers by offering services to all, not just “remedial” students. Writing centers no longer are grammar “fix-it-shops” but instead are places where students can seek individualized assistance as they work through the writing process, from topic selection to final product.<sup>2</sup> With this model in mind, I found my hook: reviewing students’ writing samples for summer employment and clerkship applications. Because Penn’s Career Planning and Placement (“CP&P”) office was focused primarily on students’ cover letters and resumes, I realized that there was



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*Writing centers no longer are grammar “fix-it-shops” but instead are places where students can seek individualized assistance as they work through the writing process, from topic selection to final product. With this model in mind, I found my hook: reviewing students’ writing samples for summer employment and clerkship applications.*

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a great opportunity to offer a service that would be universally attractive given students’ incentive to submit high-caliber writing samples. So I teamed with CP&P to promote my availability and willingness to help students by giving input into which paper to use as a sample, offering guidance on how to create an excerpt from a larger document, and providing a knowledgeable reader’s perspective on how to improve their papers through tailored comments. To get the word out, CP&P advertised my services through a blog post and an email. The clerkship advisor also agreed to tout my availability when she met with prospective candidates.

Little did I realize how much demand there would be. For 2014 On-Campus Interviewing, I provided individualized comments on fifty-seven writing samples, which amounted to approximately 22% of Penn’s Class of 2016. I also reviewed and critiqued twenty-one writing samples for clerkships. Word of mouth, however, generated even more participation the ensuing year. For On-Campus Interviewing in 2015, I received eighty-four writing samples, each ten pages on average. This twenty-seven paper increase shows a growth rate of 47% from 2014 to 2015. In total, I assisted more than one-third of the Class of 2017.

### III. TAKEAWAYS

My writing sample review service has been very well received. Students have been most appreciative of and grateful for the feedback on their papers; one even thanked her “lucky stars” for the great support system at Penn. The students readily understand and are equipped to implement the comments because of the foundation they have from Legal Practice Skills. They also see firsthand the power of revising and polishing to improve their work product and work prospects. And Penn faculty and CP&P staff have been thrilled that students are receiving more assistance in obtaining prestigious job offers and coveted clerkships.

Because reviewing writing samples enhances the writing specialist’s appeal, schools might consider similar collaborations with career services both to remove any potential stigma associated with visiting the writing specialist and to promote the writing specialist’s visibility. Offering to look at students’ writing samples provides another arrow in the writing specialist’s quiver to reinforce the message that writing is a critical lawyering skill that will affect students’ ability not only to land plum positions but to thrive at them as well.

#### NOTES

1. Aida M. Alaka, *The Grammar Wars Come to Law School*, 59 J. LEGAL EDUC. 343, 355 (Feb. 2010) (observing that although the specific duties and job descriptions vary by program, the essential task of a writing specialist is to work individually with students on low-level writing problems such as basic grammar, punctuation, and usage).
2. Kristen E. Murray, *Peer Tutoring and the Law School Writing Center: Theory and Practice*, 17 LEGAL WRITING: J. LEGAL WRITING INST. 161, 162 (2011) (citations omitted) (describing the evolution of peer-staffed writing centers).

# The Legal Writing Specialist: Same Story, Different Voices



Cherish Keller

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As the writing specialist at Chicago-Kent College of Law, I don't see my focus as teaching legal writing, exactly—that's the role of the student's legal writing professor. I don't teach students how to brief, I don't teach students how to reason, and I don't teach students how to organize. At least, not from scratch. Instead, I see my role as giving students the same material they've already had, but in different voices, to see if I can find the voice that will reach them.

Sometimes, that voice is mine. I say the same things I'm sure a student's legal writing professor has said, but I reframe them. I might reframe a rule proof or an explanation case, when I explain that it's like showing a photograph of the case to the reader.

Give me key facts, outcome, and reasoning, I say—describe the case with vivid detail so that I can “see” what happened, without ever reading the case. That's my favorite way of describing explanation cases—and maybe that description clicks with this student, when the professor's explanation didn't reach the student in the same way. Sometimes I use my own literal voice, reading some of the student's writing out loud and asking if it sounds clear, or briefly explaining a grammatical issue that seems to challenge the student.

Sometimes, that voice is fictitious. My Irate Partner voice helps me reframe why students need

counteranalysis. I explain that if you don't tell your supervising attorney about the potential weaknesses of your case, and the other side's attorney brings up those weaknesses during a settlement call, your supervising attorney won't know how to respond—because you hadn't warned him or her about those weaknesses! I use the mock-furious voice of Irate Partner, yelling out “Associate! Why didn't I know that?”—and then students grin, realizing that yes, that's why they need to include those. Or I remind them of the audience, and in my Generic Reader voice, I explain why I'm confused about what happened in an explanation case. Personally, I may know the missing facts, but I pretend to be Generic Reader, and I explain back to them what they've told me, to help them see that I don't have enough facts to really understand the case.

And sometimes, that voice is theirs. Students often know the answers to their own questions, and the questions I ask will prompt them to explain back to me the exact thing they thought they didn't know. I love those “aha” moments! As a student explains to me what

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*As a student explains to me what key characteristic two cases have in common, or why a writer needs to give the overall rule in an umbrella paragraph, I sit back. I watch. I wait. I raise my eyebrow. I say: “See? You knew!” The student feels good—the answer came in the student's own voice.*

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key characteristic two cases have in common, or why a writer needs to give the overall rule in an umbrella paragraph, I sit back. I watch. I wait. I raise my eyebrow. I say: “See? You knew!” The student feels good—the answer came in the student’s own voice.

But being present for it is special, and it is vital—I get to guide the student as he or she looks inside and figures out that more knowledge resides there than expected. I try to make it momentous, exclaiming with pride, “Yeah, that’s right!” In law school, where students often struggle so much, the moments where they can feel they know something, that they really are learning something, are powerful.

However, sometimes another voice is not enough. My most difficult moments in this role come when students need more than another voice, when students need something I can’t give. I can’t do it for them. I’ve seen a few students I couldn’t seem to help enough,

and it was painful—they were too lost, and they came to see me too late. My probing questions just left them feeling even more lost. I try to pull them back to basics, reminding them of what the reader needs, but there’s only so much I can do—I can’t tell them the cases they should use, I can’t tell them how to articulate the courts’ ambiguously-defined factors, and I can’t tell them the conclusions they should reach. As last words to those students, I remind them to go back to the cases, look at the facts, make a chart, talk to their classmates (when allowed), or see their professor—I try to help them make a plan of action. But there is only so much I can do, in twenty to thirty minutes. Sometimes, no voice at my disposal is sufficient at the time, but I hope my voice drifts back to them later, repeating the final words I said during our conference, when I reassured them: “This is hard. But don’t give up. Try what we discussed. You can do this.”



## Program News

### Suffolk University Law School

hosted the New England Consortium of Legal Writing Teachers, held at Suffolk on Sept. 18, 2015, on the theme of Maximizing Student and Faculty Potential. **Kathy Vinson** and **Rosa Kim** co-chaired the conference committee. Suffolk's Legal Practice Skills Program has created a new blog called "Legal Writing Matters." [http://theroadto1l.blogs.law.suffolk.edu/category/legal\\_writing\\_matters/](http://theroadto1l.blogs.law.suffolk.edu/category/legal_writing_matters/)

### Temple University Beasley School of Law's Susan DeJarnatt

will be lecturing at the University of Verona Faculty of Law in December 2015 on common law reasoning to Italian Ph.D. students and lawyers.

### Megan McAlpin of the University of Oregon School of Law

is the Galen Scholar in Legal Writing for the 2015-16 academic year. In this role, she is serving as the law school's first writing specialist. She continues to serve on the Board of Directors of the Association of Legal Writing Directors and the Editorial Board of the Journal of the Legal Writing Institute.

### Suzanne Rowe of the University of Oregon School of Law

received the Section Award of the Legal Writing, Reasoning, and Research Section of the Association of American Law Schools. The award, which recognizes "service, scholarship, and legal writing program design or other activity valuable to the advancement of the field of legal writing," was presented at a luncheon during the AALS annual meeting in New York City in January 2016. Suzanne has also been invited to join the Advisory Board of Carolina Academic Press.

### The West Virginia University College of Law thanks Grace Wigal,

former director of the Academic Excellence Program, and **Jean Daily**, former part time Writing Specialist, for their service and congratulates them on their retirement. Both made countless contributions to the success of students. WVU also welcomes **Kirsha Trychta** as the new director of the Academic Excellence Program and **Melanie Stimeling** as the new full time Writing Specialist. Kirsha and Melanie bring a wealth of experience fostering student academic success, and we are excited to have them join the college. Kirsha's role will allow her to support students as they develop legal skills and prepare for the bar examination. Melanie will support students as they improve their writing and support faculty members as they engage with writing activities in the classroom as well as in the profession.

## Hiring and Promotion

Southern University Law Center promoted **Angela Bell**, **Wendy Shea**, and **Tracie Woods** to Associate Professors of Legal Analysis & Writing, effective August 2015.

Associate Professor of Law **Wendy Adele Humphrey** of Texas Tech University School of Law was appointed as the Assistant Dean for Educational Effectiveness at the Texas Tech University School of Law. As Assistant Dean, she is responsible for compliance with assessment standards for regional and ABA accreditation.

**Kristen Murray** was promoted to Professor of Law at Temple University Beasley School of Law.

**Mark Osbeck** of University of Michigan Law School was promoted from Clinical Assistant Professor of Law to Clinical Professor of Law, with full clinical tenure, effective September 1, 2015.

## Publications, Presentations, and Accomplishments

**Angela A. Allen-Bell**, *How The Narrative About Louisiana's Non-Unanimous Criminal Jury System Became A Person Of Interest In The Case Against Justice In The Deep South*, will be published in the spring 2016 edition of the *Mercer Law Review*. She published *A Prescription for Healing a National Wound: Two Doses of Executive Direct Action Equals a Portion of Justice and a Serving of Redress for America & The Black Panther Party*, 5 UNIV. MIAMI RACE & SOC. JUSTICE L.REV. 1 (Spring 2015) (Lead Article). She was interviewed as follows: Interviewed for Written Story About Solitary Confinement & The Angola 3 Case, Richard Hetu, La Presse (France) (06/26/15); Interviewed for Written Story About Solitary Confinement, Philippe Boulet-gercourt, Le Nouvel Observateur (France) (06/18/15); Interviewed for Written Series About Solitary Confinement & The Angola 3 Case, Emily Lane, NOLA.com/The Times-Picayune (06/15/15); Radio Interview (Angola 3 Case Update), Real Talk Radio-KJCB 770 AM, Lafayette, Louisiana (06/13/15); Television Interview (Angola 3 Case Update), News Nation with Tamron Hall, MSNBC (06/12/15); Television Interview (Angola 3 Case Update), NBC Nightly News (06/12/15); Radio Interview (Angola 3 Case Update), National Public Radio, All Things Considered, Audie Cornish (06/12/15); Radio Interview (Angola 3 Case Update), WBOK (Chuck Perkins Show), New Orleans, Louisiana (06/10/15); Television Interview (Angola 3 Case Update), Sky News (London Broadcast) (06/09/15); Interviewed for Written Story About The Angola 3 Case, Kevin McGill, Associated Press (06/09/15); Television Interview (Restorative Justice, The Black Panther Party & The Angola 3 Case, Channel FPTV 17, The Patricia Morris

Show, Hammond, Louisiana (05/05/15); Television Interview (Restorative Justice), WSTY TV, The Ed Ponds Show, Hammond, Louisiana (05/01/15).

**Charles Calleros**, Arizona State University, Sandra Day O'Connor College of Law, was awarded five honors in 2015: Lifetime Achievement Award (Los Abogados); College of Law Outstanding Faculty Award (by vote of graduating class); Moot Court Faculty Coach of the Year (Executive Moot Court Board); First Recipient of the annual Charles R. Calleros Campeon de Justicia Award (created and named by the Chicano-Latino Law Students Assoc.); and the Mark Santana Law-Related Education Award (Ariz. Foundation for Leg. Serv. & Educ.). In Fall 2015, he published one book and one article: *CONTRACTS: CASES, TEXT & PROBLEMS* (CAP 2015) (e-book); *Marriage Equality on the Arc of Civil Rights History: A Broad Historical Narrative*, 28 *THE SECOND DRAFT* 7 (Fall 2015), available at <http://lwionline.org/uploads/FileUpload/F2015SecondDraftMobile.pdf>.

**Chris Coughlin**, see **Joan Rocklin**.

**Sabrina DeFabritiis**, see **Kathleen Elliott Vinson**.

**Susan DeJarnatt's** (Temple University Beasley School of Law) article, *Charting School Discipline*, co-authored with **Prof. Kerrin Wolf** and **Mary Kate Kalinich**, has been accepted for publication in the upcoming Winter issue of the *Urban Lawyer*.

**Liz Frost**, **Megan McAlpin**, and **Suzanne Rowe** of the University of Oregon School of Law continue to write monthly articles for the Oregon State Bar Bulletin. Recent articles include *Kind Regards and Other Affronts: Another Look at Professional Email*; *Ready to Write: Transferring Writing Skills from Law School to Law Practice*; and *Brevity: Readers Respond*.

**Wendy Adele Humphrey** of the Texas Tech University School of Law published "Let's Talk about Sex": *Legislating and Educating on the Affirmative Consent Standard*, 50 *U.S.F.L. REV.* 479 (2015).

**Regina Ramsey James**, Associate Professor of Legal Analysis & Writing, Southern University Law Center published *How to Fulfill a Broken Promise: Revisiting and Reaffirming the Importance of Desegregated Equal Educational Access and Opportunity*, 68 *ARK. L. REV.* 159 (2015).

**Mary Kate Kalinich**, see **Susan DeJarnatt**.

**Joe Kimble**, a professor emeritus at Western Michigan University Cooley Law School, received the 2014 John W. Reed Lawyer Legacy Award from the State Bar of Michigan. The award is given periodically to an educator from a Michigan law school "whose influence on lawyers has elevated the quality of legal practice in our state." He is the fourth person to have received the award. He published *The Doctrine of the Last Antecedent, the Example in Barnhart, Why Both Are Weak, and How Textualism Postures*, 15 *SCRIBES J. LEGAL WRITING* 5 (2014-2015) and *You Think Lawyers Are Good Drafters?* 17 *GREEN BAG* 2d 41 (Autumn 2014).

**Terri LeClercq**, University of Texas School of Law and **Karin Mika**, Cleveland Marshall Law School, have ventured into inexpensive, print-on-demand textbooks. *LEGAL WRITING WITH STYLE* refreshes students' basics and introduces clear and readable legal prose. Short 120 pp, exercises and answers, cartoons and color, only \$19.95.

**Ellie Margolis** (Temple University Beasley School of Law) published *Is the Medium the Message? Unleashing the Power of E-communication in the Twenty-First Century*, 12 *LEGAL COMMUNICATION & RHETORIC: JALWD* 1 (2015); **Ellie Margolis** and **Kristen Murray** (Temple University Beasley School of Law) published their essay "Mind the Gap" as part of the first digital volume of *Legal Writing: The Journal of the Legal Writing Institute*.

**Megan McAlpin**, see **Liz Frost**.

**Karin Mika**, see **Terri LeClercq**.

**Patricia Montana**, Professor of Legal Writing at St. John's University School of Law, is happy to announce that her most recent article, *A Contemporary Model for Using Teaching Assistants in Legal Writing Programs*, will be published in the forthcoming issue of the *Mitchell | Hamline Law Review*.

**Kristen Murray** (Temple University Beasley School of Law) was appointed to the Civil Jury Instructions Committee of the Pennsylvania Supreme Court. **See also Ellie Margolis**.

The Second Edition of **Mark Osbeck's** book *Impeccable Research: A Concise Guide to Mastering Legal Research Skills* (2d ed. 2015) was published in October 2015.

**Sandy Patrick**, see **Joan Rocklin**.

**Abigail Perdue**, Associate Professor of Legal Analysis, Writing, and Research at Wake Forest University School of Law, published "The Stories Told about U.S. v. Virginia" in the September edition of *The Second Draft*. She also published a law review article -- "Unseen. Unheard. Unequal.: Attitudes toward Coeducation at the Intersection of Sex and Race" -- in the *Duke Journal of Gender, Law, and Policy*.

**Joan Rocklin** of the University of Oregon School of Law, **Robert Rocklin** (Willamette), **Chris Coughlin** (Wake Forest), and **Sandy Patrick** (Lewis & Clark) published *AN ADVOCATE PERSUADES*, a companion to the textbook *A LAWYER WRITES*. *AN ADVOCATE PERSUADES* was available from Carolina Academic Press in December 2015.

**Robert Rocklin**, see **Joan Rocklin**.

**Suzanne Rowe**, see **Liz Frost**.

**Kristen Tiscione** of Georgetown University Law Center and **Amy Vorenberg** of the University of New Hampshire Law School published an article about the gender disparity and income inequities inherent in the two-track law school faculty system. *Podia and Pens; Dismantling the Two-Track system for Legal Research and Writing Faculty*, 31 *COLUM. J. GENDER & L.* 47 (2015).

**Kathleen Elliott Vinson** published the following: *What's Your Problem?*, 44 STET. L. REV. 777 (2015); *Concerns of Incoming First-Year Students*, LEGAL WRITING MATTERS BLOG (Aug. 31, 2015), [http://theroadto1l.blogs.law.suffolk.edu/category/legal\\_writing\\_matters/](http://theroadto1l.blogs.law.suffolk.edu/category/legal_writing_matters/); *Using a Writing Lockdown to Help Students Avoid Procrastination*, LEGAL WRITING MATTERS BLOG (July 7, 2015), [http://theroadto1l.blogs.law.suffolk.edu/category/legal\\_writing\\_matters/](http://theroadto1l.blogs.law.suffolk.edu/category/legal_writing_matters/); **Kathleen Elliott Vinson & Sabrina DeFabritiis**, *Preparing Students for the Bar Exam*, LEGAL WRITING MATTERS BLOG (July 29, 2015), [http://theroadto1l.blogs.law.suffolk.edu/category/legal\\_writing\\_matters/](http://theroadto1l.blogs.law.suffolk.edu/category/legal_writing_matters/).

**Amy Vorenberg** published the second book of her three-part text book series, PREPARING FOR PRACTICE; LEGAL ANALYSIS AND WRITING IN LAW SCHOOL'S FIRST YEAR: CASE FILES SET B (Wolters Kluwer 2016) designed to guide students through their development of the essential skills needed to pass the bar and practice law. The course book combines practice-oriented case files with theoretical content, eliminating the need for professors to create their own case files. Each volume has three new case files, which eliminates the concern about students accessing work product produced in previous years. **See also Kristen Tiscione.**

**Kerrin Wolf, see Susan DeJarnatt.**



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