

ONE CHALLENGE FACING THE DISCIPLINE  
OF LEGAL WRITING:  
THE CONNECTION BETWEEN DISCIPLINE AND STATUS

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Informed by the panel on which we participated at the 2018 LWI Biennial Conference—“**Promoting Legal Writing Within the Legal Academy: Perspectives from the Dean**”<sup>1</sup>—and other sessions and conversations, we believe that one of the challenges that currently faces the discipline of legal writing is the lack of consistent support for the scholarly activities of legal writing faculty throughout the legal academy.<sup>2</sup> For many legal writing faculty, structural and cultural impediments within law school—to put it bluntly, *lack of status*—deter scholarly productivity. Given that building a discipline necessarily requires scholarship in the discipline, these barriers constitute a systemic challenge to the discipline at large.

How can we address this challenge? At least two interventions might help.

First, professors who teach legal writing must be given the time necessary to produce rigorous scholarship. Although other law school courses can be taught in a time-intensive way, the reality is that legal writing courses are *expected* to be taught in a time-intensive way. For example, individualized feedback on students’ writing is a hallmark of legal writing courses. In addition to giving students individualized written feedback, professors who teach first-year legal writing courses

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<sup>1</sup> LWI Biennial Conference, Milwaukee, Wisconsin (July 14, 2018). Three law school deans, including Daniel Filler, participated on this panel, which Emily Zimmerman moderated. We would like to thank Dean Joseph D. Kearney and Dean Jennifer Rosato Perea for also participating on the panel.

<sup>2</sup> We use the term “legal writing” here, recognizing that “legal writing” as a descriptor does not necessarily fully reflect the scholarship—or the discipline—to which we are referring.

ordinarily have multiple one-on-one conferences with students throughout the year (including required conferences and many other meetings with students, during office hours and at other times). This work consumes substantial time that might otherwise, at least in part, be spent on scholarship. Smaller class sizes and periodic terms without teaching are some of the ways in which professors who teach legal writing can be given time for scholarship.

Second, professors who teach legal writing must have access to the culture of scholarly expectations, support, and encouragement typical among tenured and tenure-track faculty communities. A scholarship-supportive environment means that professors who teach legal writing are recognized as being capable of scholarship by their institutions and peers. Support for scholarship also includes more tangible benefits of status: summer research grants, funding for research assistants, and funding for conferences and workshops where ideas and drafts are shared and feedback received.

The unequal status of many professors who teach legal writing relative to their colleagues who teach other courses is one of the challenges facing the discipline of legal writing. This unequal status results in legal writing professors not being given the support they need to create the scholarship that will build the discipline. The result is that professors who teach legal writing either choose to write scholarship anyway, but do so under conditions that are markedly different (and more adverse) than the rest of their faculty colleagues, or choose not to write scholarship because they do not have the time or other support to do so.

Status is also tied to discipline-building to the extent that professors are discouraged from writing on legal-writing-related topics. Although not all professors who teach legal writing might want to write on legal-writing-related topics, some professors who might be interested in writing on discipline-building legal-writing-related topics might be dissuaded from doing so. Their schools may not value scholarship related to legal writing as highly as scholarship on other topics and may, in some cases, explicitly discourage scholarship regarding legal writing. Pressures regarding the placement of articles (i.e., the types of journals in which articles are published) might also discourage some professors from writing discipline-building legal-writing scholarship.

There is already much valuable scholarship regarding legal writing, but there needs to be more, and more voices should contribute to the building of the discipline. This short essay identifies some of the ways in which status and discipline are connected. These examples demonstrate some of the challenges regarding building the discipline of legal writing. They also suggest that promoting the status

of professors who teach legal writing, in addition to being the right thing to do for other reasons, is a vital part of building this important discipline.<sup>3</sup>

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<sup>3</sup> There are also other ways to promote the status of professors who teach legal writing and, thus, build the discipline of legal writing. For example, Standard 405 of the ABA Standards and Rules of Procedure for Approval of Law Schools could be revised to have a unitary standard for professors, regardless of what they teach.