

## Lessons from the Other Side— What I Learned About Teaching Legal Writing by Teaching Professional Responsibility

By Allison Martin

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It's great to be a student again—the preparation for class, the butterflies if you get asked a question, the intellectual exchange of ideas—but, wait, I am the teacher! And I am not teaching one of my comfortable legal writing courses; I am teaching professional responsibility. Although being a student again and teaching a “casebook” course are two perspectives of legal education different from mine as a legal writing professor, I learned much about teaching legal writing from both.

To teach professional responsibility for the first time, I had to become a student again—relearning old rules and studying new ones. Indeed, it had been 15 years since I had taken professional responsibility in law school and passed the Multistate Professional Responsibility Examination (MPRE). The challenge made me a bit nervous. I wondered, what if I cannot master the material well enough to be a good teacher? What if I cannot present the material in a logical and understandable way? What if the students ask me questions to which I do not know the answers? What if I just freeze in the face of 60-plus students, a class size much larger than my legal writing classes? I felt so many uncertainties—much like I did as an entering first-year law student. Reliving these feelings made me acutely aware of the student experience again. Just as doctors should become patients once in awhile to remind them of how to

provide quality care to patients, law professors should become students occasionally to remind us of how to provide quality education to students.

My first lesson was a reminder to be patient with students. After immersing myself in professional responsibility materials and taking wise advice from colleagues, I gained more confidence. I was no expert in the field, however, often mastering the material one class ahead of my students. Recognizing my own limitations as a first-time teacher, I decided ahead of time to respond honestly when asked a question to which I did not know the answer, which meant that sometimes I would have to say, “I don't know.” Although concerned about losing students' respect at first, I decided that, on balance, this response was better for me, personally, than to try to fake answers or dodge questions.

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### From the Editor: Transitions and Legacies

Three of our long-term editorial board members are stepping down this year: Frank G. Houdek, Mary S. Lawrence, and Louis J. Sirico, Jr. Frank joined the original board in 1992, and Mary and Lou joined the board in 1995. Their distinguished service has been marked with energy and enthusiasm. Frank served as the Editor from 1994 to 2000, and compiled the “Best of Perspectives” volume. Mary solicited and edited scores of articles for *Perspectives* taking primary responsibility for the Brutal Choices column. Lou solicited and edited numerous articles for the Teachable Moments for Teachers column. Each have encouraged and inspired generations of legal research and writing faculty and law librarians.

Frank Houdek is moving from law librarianship to become the Associate Dean for Academic Affairs at Southern Illinois University School of Law. Mary Lawrence served as Director of the Legal Research and Writing Program at the University of Oregon Law School from 1978 to 2000; she continues to be active as an emeritus professor. Louis Sirico has served as the Director of the Legal Writing Program at Villanova Law School since 1985. In 2007 he was awarded the Thomas F. Blackwell Memorial Award in recognition of his outstanding contributions to the field of legal writing.

We owe a debt of gratitude for their service on *Perspectives* and their work in the legal community. I thank Frank, Mary, and Lou for their many contributions.

—Mary A. Hotchkiss, *Perspectives* Editor

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Inevitably the day came when I was asked a good question to which I did not know the answer. I gave my gut reaction followed by an honest admission of my uncertainty and a promise to get back to them in the next class. How did the students respond? Patiently. They were patient with me. Knowing that I had never before taught this course, they accepted my occasional gut response. I was reminded that I, too, need to be patient with my entering first-year students who have never before taken a legal writing course.

The lesson here also went beyond patience. Over time, I learned that the students actually did not expect me to know the answer to every question they might raise. Their expectations of me were more reasonable; as a result, my expectations of myself became more reasonable. Once I accepted that I could not anticipate every question, my comfort level increased. I then began answering some questions by responding to the student or class with a follow-up question, such as, “What do

you think?” or, “It depends. On what should it depend?” These moments often led to our most interesting discussions. Indeed, at times, not knowing “the answer” became a great teaching tool. It became clear that an important part of my job is to teach students not necessarily what I, the teacher, know, but how they, the students, can learn. Modeling for them how to find answers to, or at least how to define parameters of, new legal problems is important in casebook courses—and equally important in legal writing courses.

Teaching professional responsibility also reminded me of how important it is to respond to student questions with timely, clear responses. While teaching conflicts of interest, which was particularly challenging at times, I encountered questions of my own. Fortunately, a former colleague is an expert in the field. When I would e-mail her questions, she responded promptly and clearly. I thought, how fortunate her students are. Her responses reminded me of how important it is to

“Teaching a new subject opened my mind to new routines, new hypotheticals, and new answers.”

give timely, clear responses to student questions, as she had done with mine. The importance of this feedback goes beyond just satisfying students’ desires, too. Providing such responses models good lawyer traits; the legal profession values both speed and clarity. My legal writing course presents a perfect opportunity, again, to model these important professional values.

I was also reminded to bring more flexibility to my legal writing course. Having taught legal writing for 10 years, I find it easy to fall into the same routine, teaching the same way and expecting the same results. Teaching a new subject opened my mind to new routines, new hypotheticals, and new answers. The experience was energizing. With this energy, I hope to be more flexible in my legal writing course—by teaching the organization of legal writing in a new way or tweaking a trusty old legal writing problem into a new challenge.

As a practical matter, I also hope to create new legal writing problems based on issues in professional responsibility. There is a wealth of good topics for first-year legal writing problems in this area. For example, in certain circumstances, an attorney may have a common law duty to warn an identifiable victim of danger even if a client’s confidentiality would be compromised. I can imagine a good office memorandum assignment involving this legal standard, perhaps even using *Tarasoff v. Regents of the Univ. of Cal.*, 551 P.2d 334 (Cal. 1976) as persuasive authority. The assignment would tie torts and professional responsibility together, making students aware of attorneys’ ethical obligations as they coexist with attorneys’ common law obligations. Such an assignment would force students to begin thinking about their ethical and legal obligations as lawyers.

Furthermore, creating legal writing problems based on professional conduct codes would give students more practice with analyzing rules. Because I had no prior exams on file to help students prepare for my final exam, I handed out a sample essay question and, later, a sample answer. After all, modeling good writing is just as important in casebook courses as it is in legal writing courses.

When the students were reviewing the sample answer, some asked, “So, you expect us to provide the applicable rule when answering the question?” I, of course, answered yes, but tried to investigate the source of this question; the answer seemed so obvious to me. Apparently, some students were thinking of the rules more like general guidelines; they mistakenly believed that they could simply state broad ideas and apply them to their facts instead of identifying the specific rule and its requirements first. Even on the final exam, some students made this mistake. Based on this experience, I realized that first-year law students would benefit from a legal writing experience requiring this type of rules analysis.

Basing at least one problem in legal writing on professional responsibility issues also supports the movement to teach ethics throughout the law school curriculum. Deborah Rhode, a pioneer of this movement, argues that law schools should discuss professional responsibility issues throughout their curriculum rather than relegating them to specialized courses. See Deborah Rhode, *Ethics by the Pervasive Method*, 42 J. Legal Educ. 31 (1992), for a discussion of pervasive ethics in a law school curriculum. Even if total integration is not achieved, students benefit from learning and writing about ethical concepts early, especially when a specialized course is not taught in the first-year curriculum.

Another of my lessons was how important it is to stretch my legal mind. Although teaching legal writing is challenging, the legal topics chosen for first-year writing assignments, especially in the first semester, are not as intellectually challenging as, say, conflicts of interest. Of course, choosing less challenging topics for beginning legal writers has sound pedagogical reasons. But sometimes I, personally, want to wrestle with tougher questions in law. Teaching a course with more complicated legal topics, like professional responsibility, to upper-level students gave me this opportunity.

Further, the experience recharged my “grading” batteries. Although I spent an enormous amount of time preparing for class and, with help, creating a final exam and detailed answer key, the course did not require the same type of heavy grading that my

legal writing course does. Even grading more than 60 final exams was not as draining as grading in my legal writing course. Can we legal writing professors learn from the grading structure of casebook courses? Is there a way to restructure grading in legal writing to make the teaching just as effective but keep the grading at a more manageable level? For example, could we assign small pass/fail writing exercises throughout the semester, which would allow for quick and extensive feedback, and then merely grade a final draft, providing a detailed answer key for those students with questions about their grades? These questions have been, and should continue to be, explored. In any event, teaching professional responsibility refreshed my grading spirit, the importance of which cannot be overstated, especially after years of teaching legal writing.

One superficial lesson I learned related to clothing. Because I wanted to feel more confident while teaching a new course, I “suited up” for every class. Wearing a professional suit while teaching professional responsibility seemed only fitting, and the suit made me feel more polished and in control. It did not even occur to me that the students would notice. But to my surprise, the students did notice and reacted positively to my professional appearance, making comments after class and on student evaluations. As a result, I plan to add suits to my regular clothing rotation in my legal writing class—another opportunity to model professionalism.

The final lesson relates to others’ attitudes. Students and even some casebook faculty seem to like the fact that I have taught a casebook course. Do they feel more confident in a professor’s ability to teach legal writing if that professor has also taught a casebook course? Do they perceive legal writing professors as more competent if they have also taught a casebook course? Do they just feel more comfortable in realizing that a legal writing professor has other interests? The reasons for their attitudes are probably numerous and worth exploring. But for now, whatever the reasons, I hope that the students’ attitude will help foster a good legal writing environment for learning. In addition, a favorable attitude from some casebook faculty may help to raise the profile of legal writing professors and the entire legal writing program.

Being a student again and teaching a casebook course reminded me how to treat my students and taught me how to be more engaged and energized as a legal writing professor. The importance of modeling professional values and behavior was also a significant lesson. By teaching professional responsibility, in particular, I learned that first-year students can benefit greatly from being assigned at least one legal writing problem in this area—and there are many good choices. Some of these lessons I intend to implement immediately; others are food for more thought. All of them have enriched my perspective as a legal writing professor.

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## Another Perspective

“My ultimate good-writing test is whether I think readers will enjoy a piece even if they could care less about the subject. That is not to say that I discount the importance of subject or have abandoned the goal of providing useful and important information to *Journal* readers. Just that good writing is so interesting that it keeps a reader engrossed even where the subject matter does not. Or maybe that the writing enhances a latent (or perhaps previously unknown) interest in the subject on part of the reader. Anyway, good writing will get you to the end, and, maybe even in spite of yourself, you will have been both informed and entertained.”

— Frank G. Houdek, *From the Editor: Good Writing*, 88 *Law Libr. J.* 333 (1986).