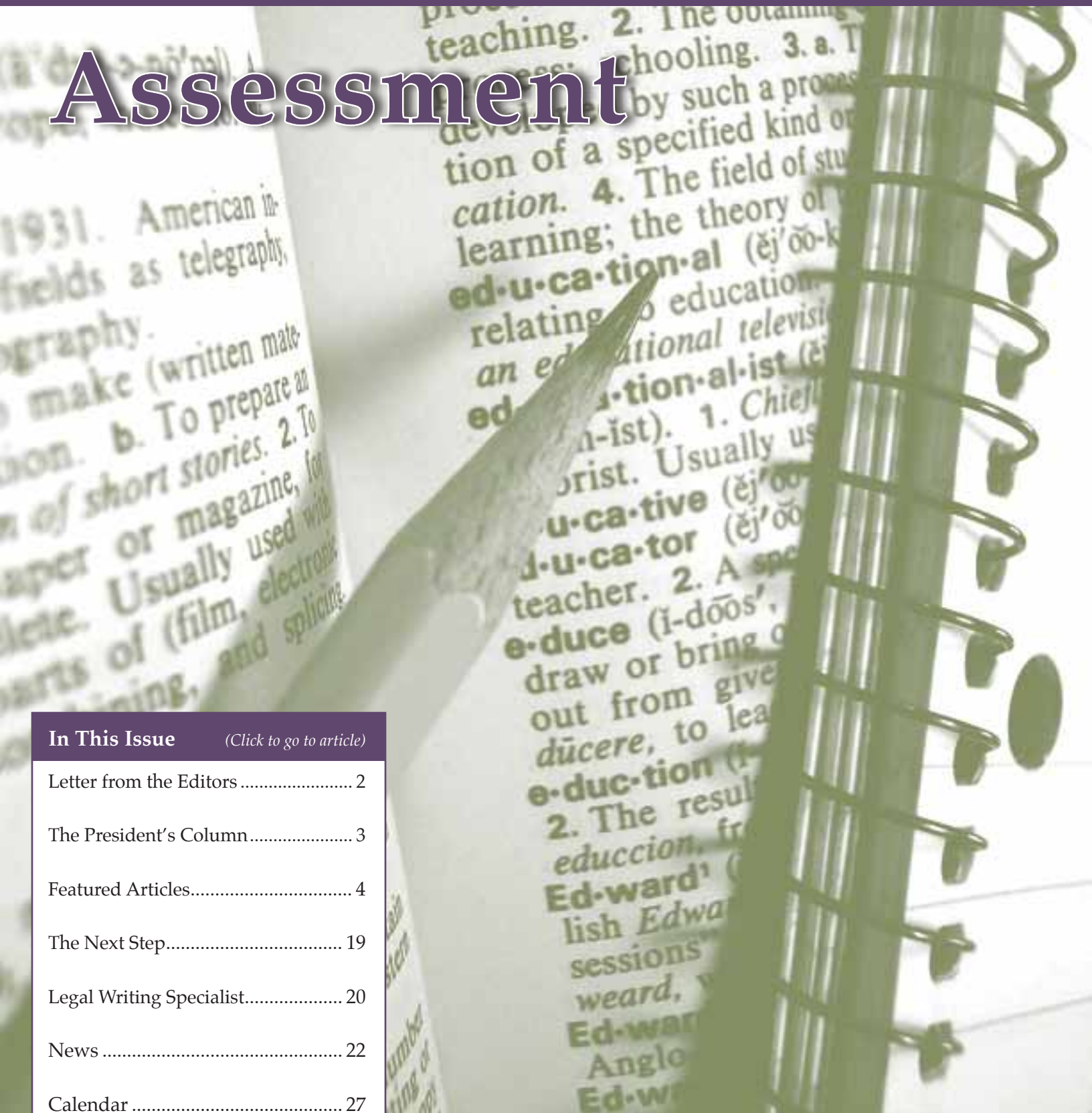




# Assessment

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**Please welcome the new members of *The Second Draft* Editorial Board:**



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*DePaul University College of Law*



**Christy DeSanctis**  
*George Washington University Law School*



**Miki Felsenburg**  
*Wake Forest School of Law*



**Harris Freeman**  
*Western New England Law School*



**Teri McMurtry-Chubb**  
*University of La Verne College of Law*



**Christine Mooney**  
*Villanova Law School*



**Suzanne Moran**  
*University of Denver College of Law*



**Mary Beth Moylan**  
*Pacific McGeorge School of Law*

## Letter from the Editors

*This issue of *The Second Draft* touches on a timely topic at the heart of the Carnegie Report and the ABA's Best Practices: the effective use of outcome measures and assessments in teaching legal analysis, writing, research, and other lawyering skills. From setting goals and outcomes for entire programs to creating tools for student assessment of particular skills, our authors analyze myriad aspects of this always challenging topic. These issues are particularly timely as the ABA is considering making outcomes and assessments part of its accreditation standard. Further, the AALS Section of Legal Writing, Reasoning, and Research will also focus on outcomes and assessments at the annual AALS meeting in San Francisco in January 2011.*

*Looking ahead, we are excited to announce the topic for the spring issue, "Tactical Teaching: How (Should?) Teaching Research and Writing Keep Abreast of Practice." In the last several decades, the number of trained lawyers has grown exponentially, but the legal marketplace, especially in the last few years, has contracted significantly: fewer junior lawyers are being hired because fewer are needed and, for those that are hired, law firms and other legal employers have less tolerance for on-the-job training. In addition, technological innovations have dramatically changed not only the way that information is communicated, but also how it is produced and received. We invite your submissions on whether teachers of legal research and writing, and law schools more generally, must be innovative in order to accommodate an ever-changing legal marketplace, and, if so, how or to what extent teachers and schools must do it?*

*This is the first issue of *The Second Draft* produced by its new editorial board. We are eight editors from eight different schools, with diverse interests, backgrounds, and experiences. As a new editorial board, we have many goals for our upcoming issues. Our primary goal is to ensure that readers of *The Second Draft* continue to find ideas and information helpful for their teaching and professional development in each issue. We look forward to learning from you and spreading the wealth of knowledge and wisdom of the Legal Writing Institute's members to an increasing audience.*

Mary Ann Becker  
Christy DeSanctis  
Miki Felsenburg  
Harris Freeman  
Teri McMurty-Chubb  
Christine Mooney  
Suzanna Moran  
Mary-Beth Moylan





# The President's Column

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I put a lot of miles on my Mini Cooper this summer.

In June, I drove from my home in Indianapolis to Marco Island, Florida, to participate in the most recent (and yet again the largest ever) LWI Biennial Conference. Not long after I returned home I loaded up the car again (not a hard task, given its size) and drove to Denver, Colorado, to begin my semester as a visiting professor at the University of Denver Sturm College of Law. Sure, I could have flown both times, but the two-day road trips gave me some quiet time to reflect on the two years that now lay before me.

It is both a joy and an awesome responsibility to serve as the ninth President of the Legal Writing Institute. I guess I always knew that it would be, but somehow the reality of taking office has impressed upon me how honored I am to lead such a dedicated group of professional colleagues all across the nation (much of which my Cooper and I have recently seen). The point was first driven home to me in the weeks before the fabulously successful Marco Island conference, when the Program Committee co-chairs Alison Julien and Joan Rocklin and I were proofreading the final version of the conference program. One section of the program was devoted to thanking all of the volunteers who worked throughout the past two years to do the great work of this organization. It contained the names of 226 members of 40 different committees; and we probably inadvertently left a few out, for which we apologize. Ten of those committees and 40 of those people worked on planning the biennial conference, and that doesn't include the many fabulous presenters at the conference. Thanks again to every one of our amazing volunteers!

**"This issue of The Second Draft, which focuses on assessment and outcome measures, is just one more way our community is leading the way in making law schools more responsive to the needs of our students."**

The point was driven home to me again when the new LWI Board of Directors convened at Marco Island for a day-long retreat and our first business meeting. Continuing board members Linda Berger, Robin Boyle, Michael Hidgon, Tracy McGaugh, Ruth Anne Robbins, Mel Weresh and Mark Wojcik joined me in welcoming new board members Rachel Croskery-Roberts, Alison Julien, Lisa McElroy, Laurel Currie Oates, Suzanne Rabe, Joan Rocklin, and David Thomson to the board. What a great, hard-working group!



As I write this column, I am once again struck by the importance of the work we must do as a board, and as a community. Shortly after we left Marco Island, a committee of the American Bar Association circulated a proposal that, if ultimately adopted, would remove all forms of tenure, clinical tenure, or other security of position measures from the accreditation standards for law schools. These are the standards that have helped so many of our members gain the respect and status among their faculties that they deserve. Abolition of the security of provision standards would likely stall, or even reverse, the gains we have only recently made. The ultimate fate of this proposal remains in doubt, but we have a great deal of work to do to be sure that our collective voice is heard loudly and clearly. And we have been, and continue to be, fully engaged in that work.

We are also actively engaged in helping the ABA craft new standards on how to measure the effectiveness of a legal education. This issue of *The Second Draft*, which focuses on assessment and outcome measures, is just one more way our community is leading the way in making law schools more responsive to the needs of our students. I am very proud of our leadership in this endeavor.

The legal writing community is wonderfully supportive and has accomplished so much over the past 25 years because of the dedication of all 2,200 of its members. We have much work still to do, but I have every confidence that, working together as we have done so well for so long, we also have much that we will accomplish in the next several years. I look forward to working with all of you to continue our collective good work.

## Outcomes & Assessment: A Golden Opportunity for LRW Professors



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The American Bar Association is currently discussing drafts of a proposal to shift the law school accreditation standards from inputs measurements (such as numbers of books, faculty student ratios, etc.) to outcomes assessment. While still in discussion, this shift has the potential to create profound change in legal education. For the first time, law schools may be held accountable – beyond the bar exam – for what and how they teach their students. Law schools all across the country are busy trying to determine what this will mean, and how to go about meeting the new ABA standard.

An outcomes assessment process inevitably will begin by requiring law schools to articulate their goals for their graduates and measure how they are doing at achieving those goals. While such discussions necessarily should include the traditional goal of “thinking like a lawyer,” they should also include – particularly in the post-Carnegie report era – educational goals that are specific to lawyering skills. Of course, it is the faculty in the LRW program in most law schools who currently teach these skills, and prepare the foundation for the rest of our students’ legal education. Indeed, we are usually the only ones teaching these skills in the first year.

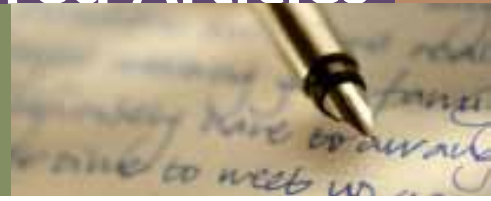
As a result, the discussions that are already beginning at law schools on this subject are generally healthy. They are important for LRW faculty because we will need to understand what outcomes assessment means for our teaching. But these discussions are also important for us because they potentially open up an opportunity for legal writing programs to have a more visible and influential role in the education of our students. The challenge for law school faculties involved in discussions about assessment is that the language of assessment – and for many, even thinking of law teaching in this way – is fairly foreign to much of the legal academy.

But those of us who teach legal writing are generally quite well versed in thinking about our teaching in these sorts of ways. Indeed, whether we called it “outcomes assessment” or not, most of us have been doing this for many years. For example, many of us have long articulated our student learning outcomes to our students, and many also use rubrics for our grading that match up to those outcomes. Indeed, without perhaps realizing it, most of us are experts in *formative assessment*, where students are given feedback on many assignments for the explicit purpose of improving on the next assignment. The Carnegie report stresses the value of formative assessment, but outside the legal writing and clinical departments, it remains fairly rare in law schools, which typically depend heavily on final exams (known as *summative assessment*).

When LRW faculty learn the language and methodology of assessment, we can stay ahead, improve the process, and perhaps even offer our expertise to our law schools. For example, at the University of Denver, our LRW faculty has been working on a comprehensive assessment effort. The first step was to refresh our Mission Statement and Program Goals. This document summarized our “core values” and the teaching and learning goals that we all share. Next, we defined our “measurable student learning outcomes,” which lists what we believe our students will learn in the first-year course.

Recently we started the final step, which is to “align” the student learning outcomes with the “evidence” that we currently collect, such as grading rubrics, memo feedback forms, or oral argument grading sheets. In this step, we connect the learning outcome we profess to be teaching our students with the “evidence” that measures whether the student is achieving that learning outcome, allowing us to identify any “gaps.” For example, we discovered we needed to work on measurements for our defined learning outcome of “professionalism,” which we are now doing. Each of these steps took a full day of committed effort, but what we learned the going through the programmatic assessment process was well worth it.

What we have learned so far is something that many – if not most – LRW programs across the country would (I suspect) also discover if they went through this process. Our program is already on the right track with assessment, and indeed, well ahead of the rest of the law school. We may not have used the appropriate assessment language, but we have been doing a lot of the right things for years.



One commentator recently noted that “perhaps the thorniest question the ABA and law school administrators now face is how to identify the skills law students should have upon graduation and to decide how specific the new standards should be in requiring the achievement and measurement of those skills.” Karen Sloan, *Holding Law Schools Accountable*, *The National Law Journal* (Feb. 22, 2010).<sup>1</sup> Since most LRW teachers have experience with both identifying those skills and measuring achievement of learning goals, we have much to offer the rest of the legal academy on how to go about making these changes and preparing for the coming shift in ABA accreditation standards. Leadership of LRW faculty in the development and implementation of assessment plans is not only necessary to the success of outcomes assessment, but could also be beneficial to LRW faculty. Sharing our expertise in this area can only engender heightened respect for the work we perform on a daily basis.

At the January 2011 meeting of the AALS in San Francisco, the LWRR Section presentation will be on this very subject. The panel presentation – which brings together legal writing teachers who have considerable knowledge of the emerging field of law school outcomes assessment – will illustrate and describe the connection between legal writing pedagogy and outcomes assessment. Presenters will include Sophie Sparrow, Lori Shaw, and the author of this article. It is our intention to offer tools and techniques that attendees can take back to their home schools to assist with the coming shift to outcomes assessment in the accreditation process. In preparation for this presentation, some readers might want to study up on the topic with the resources listed in the Bibliography at page 24.



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## Using Calibration Sessions to Create Reliable and Fair Assessments



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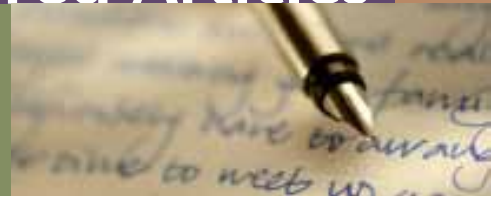
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Legal Skills programs with a large number of faculty can have difficulty ensuring student acceptance of grades and comments on assignments. Without student acceptance, assessments fail to achieve both their formative and their summative purposes. Assessments are only valid to the extent they are effective. Assessments are effective if, among other things, they are reliable and fair. An assessment is reliable if it “yields the same results on repeated trials.”<sup>2</sup> Scoring consistency is therefore a necessary step to achieving reliable assessments. An assessment is fair if it is “equitable in both process and results.”<sup>4</sup> Equitability can be achieved in a multi-professor program by using uniform assessment criteria and rubrics and applying those criteria uniformly.

Calibration sessions are one way to ensure reliable and fair assessments. A calibration session is the process of having all of the faculty teaching a specific subject meet, discuss, grade, and comment upon sample student work to develop scoring and commenting consistency. In our legal skills program, we use calibration sessions for both written assignments and oral arguments.

The calibration session has two goals: first, to lead to a group decision on what we are trying to assess for a specific assignment, and second, to introduce new faculty to the assessment approach developed in preceding sessions by more experienced members of the group. To meet both of these goals, in-person calibration





sessions using common student samples are extremely helpful. Using a uniform rubric is not enough because it is worthless if everyone interprets the parts of the rubric differently. When people can come to a shared understanding of the rubric through calibration work with the same samples, the assessments done by each individual in the group tend to show more consistent evaluation criteria.

For calibration of written assignments, two sample student written papers (student papers from the previous academic year) are distributed to our skills faculty. All identifying information, grades, and comments are removed from the sample student papers prior to their distribution to the faculty. Faculty also receive a sheet of proposed assessment criteria (or a rubric) to use in assigning grades to the papers. The faculty then have a few days to read, grade, and comment upon the sample student papers. A meeting is scheduled for a live calibration session. At this session, all of the faculty meet and discuss the grade we individually assigned to the papers, using the proposed assessment criteria (or rubric), and the comments given.

For calibration of oral arguments, we use a similar process. We set a time for our faculty to meet and together we watch three student oral arguments (the selection of arguments is on a volunteer basis by professor). Faculty also receive a sheet of proposed assessment criteria (or a rubric) to use in assigning grades to the oral arguments. After each argument, we individually write down a tentative grade and comments, and repeat this process until all three arguments have been viewed. We then take a few minutes to finalize our grades and comments. At this time, we regroup and discuss the grades we individually assigned, using the proposed assessment criteria (or rubric), and the comments given.

During the live calibration sessions, it is not uncommon for members of the group to begin several grades apart; that is, one person gave the student work a B+ where another person gave the student work a C. This initial disparity in grading demonstrates the need for calibration sessions. By the end of the calibration session, however, there must be a grading direction and commenting focus decided upon by the group.

Sometimes this leads to a decision that the assignment was too complex and we need to provide more substantive direction than usual. Other times, we agree that a focus should be on organization, or citation, or overall quality of writing. Therefore, the calibration

session cannot simply be a group discussion of how the student work was graded or commented upon. Instead, the group involved in the discussion must reach consensus on the grade (or more typically grade range) the student work should have been given, how the assessment criteria or rubric should be applied, and where the comments on the student work should have been focused. It is this process of constructing an agreed assessment approach that reduces or eliminates the risk of grading and commenting inconsistency among the legal skills sections, thereby ensuring reliable and fair assessments.

<sup>1</sup>Victoria L. VanZandt, *Creating Assessment Plans for Introductory Legal Research and Writing Courses*, 16 JLWI 313, 347 (Summer 2010).

<sup>2</sup>Id. citing Roy Stucky et al., *Best Practices for Legal Education: A Vision and a Road Map* (Clin. Leg. Educ. Assn. 2007).

<sup>3</sup>Id. citing Gregory S. Munro, *Outcomes Assessments for Law Schools* 28, 107-108 (Inst. L. Sch. Teaching 2000).

<sup>4</sup>Id.

<sup>5</sup>See VanZandt n. 1, at 348.

**“When people can come to a shared understanding of the rubric through calibration work with the same samples, the assessments done by each individual in the group tend to show more consistent evaluation criteria.”**



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## Dr. Bloom Goes to Law School



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In 1947, Michael Scriven, Ph.D, an educational philosopher, coined the terms “formative assessment” and “summative assessment” to describe the difference between assessing student understanding during the learning process and judging it after the learning process. Formative assessment was a new concept to educational theory, and it seemed a promising tool for improving student learning. In 1948, Benjamin Bloom, Ph.D., the creator of one of the most well-known educational tools, “Bloom’s Taxonomy,” made formative assessment the centerpiece of his famous work “Learning for Mastery.” In the decades since, the training of primary and secondary teachers has included instruction on formative assessment as a tool to understand and foster learning as it is taking place.

In contrast, law schools have historically operated entirely on summative assessments – the traditional end-of-the-semester law school exam. Such assessments are easier to administer, but while they allow for assignment of a final grade, they forgo the opportunity for checking student understanding, learning about strong and weak points in the teacher-student transmission of knowledge, and the opportunity to adjust teaching to improve student learning.

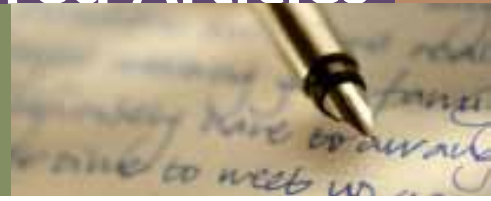
That may be about to change. The new proposed ABA Standard 304 makes the use of formative assessments mandatory across the law school curriculum: “A law school shall apply a variety of formative and summative assessment methods across the curriculum to provide meaningful feedback to students.”<sup>1</sup> While the Interpretations make clear that not every kind of assessment is required in each course and that no specific assessments are mandated, the inclusion of formative assessments is new to the ABA standards and a beneficial concept for legal education.

Formative assessments can take many shapes and sizes. Anything that measures student learning during the learning process, rather than as a final judgment tool, is a formative assessment. Quizzes, journaling, and practice applications of learning are common tools used by K-12 teachers to check student learning and adjust their teaching to reach the present class and to improve the teaching of future classes. The use of smaller, often ungraded, writing assignments, as well as metacognitive self-assessments, are regular features in many legal writing classrooms. Formative assessments of simple or intermediate concepts or tasks can help teachers ensure that students have those building blocks before moving on to more complex tasks.

Formative assessments tend to have the benefits of: 1) being non-threatening; 2) giving direct and immediate feedback; 3) highlighting areas of teacher and student success (and failure); 4) discriminating between areas of difficulty for individual students and those with which the entire class struggles. An area of individual difficulty can be remedied by individual instruction (if the student is willing), and an area of class-wide difficulty can be remedied by reviewing or re-teaching the content. With effective use of formative assessment, students learn more and teachers need not wait until they are grading the final to learn what areas the students are failing to grasp, individually and collectively.

Formative assessments need not be exceptionally formal, lengthy, or complex. Because the goal of formative assessments is to improve learning, many of the grading issues can be eliminated and often assessments can be scored by the student (or a fellow student). While formative assessments are certainly more burdensome than relying solely on summative assessments, if kept simple, they need not be overly taxing. Because they are not required and added at teacher discretion, teachers can design them with their own time and energy constraints in mind.

**“Formative assessments can take many shapes and sizes. Anything that measures student learning during the learning process, rather than as a final judgment tool, is a formative assessment.”**



That formative assessments improve student learning is well-known in the education field outside law schools. Studies also suggest that formative assessments improve student motivation and responsibility. Moreover, they develop self-assessment and learning process skills that serve students well outside the classroom. While there is much to talk about in the proposed ABA Standards, the inclusion of formative assessment is a hopeful sign for the future of legal education.

<sup>1</sup>As of press date, the text of the proposed standard can be found here: [http://www.albanylaw.edu/media/user/celt/outcomes\\_page/standards\\_301305.pdf](http://www.albanylaw.edu/media/user/celt/outcomes_page/standards_301305.pdf)

The use of various metacognitive techniques accomplishes all of these goals while serving the even larger objective of teaching law students to be expert learners. Both the Carnegie Foundation for the Advancement of Teaching and the American Bar Association in its proposed new standards on outcomes-based assessment have called for an emphasis on self-assessment<sup>1</sup> and reflection<sup>2</sup> within the law school classroom. And that's no surprise. The practice of law demands constant learning. Lawyers need to know how to learn the law, discover and understand relevant facts, and sometimes even learn new disciplines in order to effectively represent their clients. The goal of any class, especially skills-based courses, should be to teach students how to transfer the knowledge and skills taught to novel situations. By integrating learning theory into the legal writing classroom, with a specific focus on teaching metacognitive skills, the students will be better able to transfer the skills they learn.

Generally, metacognition refers to having both an *awareness* of and *control* over one's learning and thinking<sup>3</sup>. Metacognitive techniques that can be easily integrated into the legal writing class include legal writing portfolios and feedback sessions. These activities teach students to learn from each experience and transfer those lessons to their next assignment. The ultimate goal is to teach the students to become better at self-assessment, which is essential to their metacognitive development and their ability to transfer learned skills.

Legal writing portfolios are one method that supports self-assessment. The purpose of the portfolio is to allow the students to see their progress over the year while constantly reflecting on their learning. To create a portfolio, a series of self-assessments<sup>4</sup> are assigned to the students throughout the course. These might include:

- **Preliminary Course Planning**—used for students to articulate their expectations for and understandings of the course. Given to the students in the first week of the semester, the goal of this first self-assessment tool is to get the students to think more about what they bring to the class, including past writing and research experiences. It also requires the students to think about what they expect to learn in the class and set preliminary goals.
- **Self-assessment of Assignment**—given to students immediately after they submit their papers; questions ask them to identify perceived strengths and weaknesses and ask students to unpack their approach to the writing process. This self-assessment can also ask a variety of questions, including the amount of

## Using Legal Writing Portfolios and Feedback Sessions as Tools to Build Better Writers



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To the untrained eye, they may look like chicken-scratch. But to the experienced legal writing professor, the notes scribbled along the margins of student papers are precious gems – jewels of writing wisdom intended to transform a jumbled array of sentences and citations into a fluid, well-reasoned writing sample.

But if our comments are so essential to building better writers, why are most legal writing students prone to ignore them? What can legal writing professors do to steer students back toward their comments and corrections? Further, what type of formative assessment tools can we use to help our students become more engaged with the writing process – before, during, and after the production of the paper?



time they spend on the paper, whether they sought assistance, and the kinds of self-editing they performed.

- **Post-critique Self-Assessment**—given to the students when their critiqued papers are returned; these questions primarily ask students to interpret and analyze the professor’s comments.
- **Goals Sheet**—these are used as “admission slips” for writing conferences; students are expected to record their understanding of the comments from their last paper and develop an individual writing plan for the next assignment.
- **Final Assessment for Course**—used to tie together the entire course with explicit questions about the student’s growth, areas of concern, and areas of improvement. The students are asked to review all of their previous self-assessments forms and determine if they met their goals and expectations. It also requires them to plan for future learning by asking them which skills they still need to develop further.

Most of these self-assessments can be repeated throughout the semester, and can be tailored to each assignment. The legal writing portfolio also gives the students an accessible, organized measuring stick that they can use to track the development of their writing skills. Many students facing an uphill battle in the final memo are encouraged by looking at their writing progress over the course of the semester.

In addition to portfolios, feedback sessions also help students think about the writing process. For feedback sessions, one approach is to synthesize the results of the assessments and share them with the class. This technique is especially helpful at diffusing stress about writing performance on the day a paper is to be returned. By offering a global assessment of common anxieties and concerns, students feel more connected to the community of writers in the classroom. By comparing student responses to inquiries about writing strengths and weaknesses, students are able to examine and consider how they compare to their classmates in a context other than grades.

For example, how much time did each student devote to the assignment? What did each student consider the strongest or weakest part of his or her paper? What would the students do differently if given more time? Sharing anonymous comments - testimonials - from students about the writing process can also open the door for some candid discussions. Before returning graded papers to students, professors can present the

**“By integrating learning theory into the legal writing classroom, with a specific focus on teaching metacognitive skills, the students will be better able to transfer the skills they learn.”**

results of the self-assessments in a chart in a PowerPoint Slide to guide students through the class’ assessment of their performance on the assignment.

Instead of focusing merely on the end product, various assessment tools such as portfolios and feedback sessions allow students to think very deliberately about the process. These tools facilitate the success of the legal writing program by tracking growth, monitoring ongoing problems, building a relationship of trust and community in the classroom and demystifying the writing process. By integrating these steps into the law school curriculum, professors are more likely to help students “learn like a lawyer.” Hopefully, the use of such techniques gets them to look beyond the grade; rather, the students will read, think about, and implement the editing comments on their papers – even if they sometimes look like chicken-scratch.

<sup>1</sup>The Carnegie Foundation noted in its recent study that professional schools have a duty to “form practitioners who are aware of what it takes to become competent in their chosen domain and to equip them with the reflective capacity and motivation to pursue genuine expertise.” William M. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* 173 (2007).

<sup>2</sup>The proposed changes to the ABA standards on outcomes-based assessment create an incentive to help students gain more control over the writing process. Proposed Interp. 303-4 reads: “A law school’s curriculum should encourage reflection by students on their values and experiences and on the values and responsibilities of the legal profession, as well as the development of one’s ability to assess his or her performance, professionalism and level of competence.” See *Rule Drafts for Consideration at Standards Review Committee Meetings*, July 24-25, 2010 Meeting available at <http://www.abanet.org/legaled/committees/comstandards.html>.

<sup>3</sup>For more information on metacognition and how to integrate it into the classroom, see Anthony S. Niedwiecki, *Lawyers and Learning: A Metacognitive Approach to Legal Education*, 13 *Widener L. Rev.* 33 (2006).

<sup>4</sup>These assessments are also referred to as “cognitive protocols.” Many thanks to Professor Sophie Sparrow, Franklin Pierce Law Center, for her introduction to this term and method at a skills workshop in 2005.

## Diligence Is a Precious Possession: Using Personal Essays to Measure Outcomes



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“Diligence is man’s precious possession.” So wrote a first-year student in the final paper in his first-year skills course. The paper was not an appellate brief, and the authority was not a legal one. Rather the paper was a personal essay, and the authority was the Bible<sup>1</sup>. This brief article summarizes a pilot program at William Mitchell in the use of personal essays as a means of measuring outcomes in our first-year skills course.

William Mitchell’s first-year skills course, Writing & Representation: Advice & Persuasion—or WRAP—is an expansive, six-credit, two-semester, graded course. It covers legal research; writing of office memoranda, advice and demand letters, contracts, and motion practice memoranda; and the interpersonal skills of client interviewing and counseling, contract and settlement negotiation, and motion practice oral argument<sup>2</sup>. WRAP’s mission is to help students “develop the skills of working with facts, law, and people to serve clients effectively and responsibly.”<sup>3</sup> It is coordinated by two full-time faculty members and taught by practicing lawyers, two lawyers for each homeroom of a dozen students.

As with all skills courses, WRAP operates through projects: that is, students submit papers and perform exercises. Actual professional work is, of course, a classic output of professional training, and careful assessment of each project a student submits is a strong means not only of developing the student’s skill but also of measuring the efficacy of the course.

In addition, this past school year, seventy-five students participated in a pilot program: they wrote personal essays throughout the year. I read and commented on the essays; they were not scored, but completion of all five was a course requirement.

In a personal essay, the writer recounts a personal experience and ruminates on it; the essay tells parallel outer and inner stories. In the words of master anthologist Phillip Lopate, “To essay is to attempt, to test, to make a run at something without knowing whether you are going to succeed... [T]he personal essay represents a kind of basic research on the self.”<sup>4</sup>

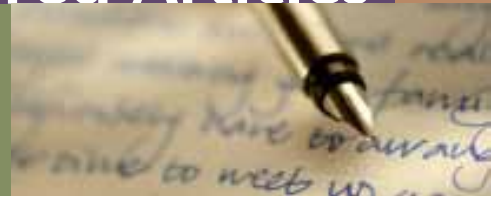
Students wrote five essays, one for each of the interpersonal skills exercises, in response to prompts I provided or on topics of their own choosing. For example, I suggested analogizing the lawyer-client relationship to some other relationship the student had experienced or comparing arguing for a client to arguing on one’s own behalf. After one negotiation exercise, I required students to reflect on a quote by Sissela Bok: “The role that one assigns to truthfulness will always remain central in considering what kind of person one wants to be—how one wishes to treat not only other people, but oneself.”<sup>5</sup>

As I explained to a student who asked how the essays connected with IRAC, the essays were themselves valuable pieces of legal-like writing. Students recounted and analyzed events, addressed abstract issues, considered various positions, and wrote in a distinctive format. More important, the essays required students—and permitted us—to assess their processes in producing legal work and the budding development of their professional identity.<sup>6</sup>

A first-year student can easily focus on producing “A” work and miss that the goal of the course is to instill skills that will yield strong work in the future. In many essays, students explained how they went about preparing for an exercise, e.g., reading the opponent’s memorandum and sources, writing out a script, generating questions with classmates, rehearsing while walking the dog. Through these essays students evaluated their own processes, and we learned whether they adopted practices that we recommended.

Many students addressed the more abstract matter of developing their professional identities as lawyers, particularly when they chose to write on a topic I had suggested. Some distilled habits of mind and heart that make a good lawyer: “I have come out of [WRAP] learning that listening, understanding, adapting, truthfulness and anticipation are some of the fundamentals of being a good lawyer.” Some wrote about the limitations on client representation: “[L]awyers protect the rights of their clients and also they protect the law.” Many grappled with the integration of personal morals and legal ethics: “I feel that I am an honest





person and I would not be true to myself or my client if I tried to deceive the opposition in order to get the best outcome for my client.” Yet others developed guiding principles for their future conduct: “It is important to represent oneself with honor when representing clients.” Interestingly, in many of these essays, students cited authorities other than legal ethics rules, such as religious or philosophical texts or their parents.

Finally, some essays permitted us to learn, in the students’ own words, what WRAP meant to them, as in this essay titled *The WRAP Connection*:

I can write to clients and connect with them, let them know I’m a person too but also that I have this ability to use the law and help them. I can write to other attorneys both formally and informally to get my point across and yet maintain a level of trustworthiness between colleagues. I can write formal motions to judges containing my legal analysis and show that I am confident and able as an attorney. It’s nice to know that WRAP has given me that confidence.

As this excerpt demonstrates, through this project, we found that asking students to write about their experiences in WRAP—not just circle numbers or check boxes on an evaluation form—provided both us and them with an invaluable output measure. They were compelled to think about what they had learned, to write about that, and to take stock of their own development at the end of the intense first year. We learned what students took away from the course not only in practice skills but also in terms of work habits, attitudes, and values, which are more elusive yet equally important dimensions of a skills course.

**“They were compelled to think about what they had learned, to write about that, and to take stock of their own development at the end of the intense first year.”**

<sup>1</sup>Proverbs 12:27.

<sup>2</sup>The required, three-credit follow-up course, *Advocacy*, covers trial and appellate practice.

<sup>3</sup>Mehmet Konar-Steenberg & Deborah Schmedemann, *Writing & Representation: Advice & Persuasion Manual 2010-2011*, at 2.

<sup>4</sup>Phillip Lopate, *The Art of the Personal Essay: An Anthology from the Classical Era to the Present* xlii (1995).

<sup>5</sup>Sissela Bok, *Lying: Moral Choice in Public and Private Life* xix (1999).

<sup>6</sup>The essays thus tap into students’ skills and attitudes, the less developed of the trilogy of legal competencies (the other being legal knowledge) discussed in William L. Sullivan et al., *Educating Lawyers: Preparation for the Profession of Law* (2007) (the Carnegie Report), and Roy Stuckey et al., *Best Practices for Legal Education: A Vision and Road Map* (2007) (the report of the Clinical Legal Education Association). This trilogy is featured as well in Catherine L. Carpenter et al., *Interim Report of the Outcome Measures Committee* (2008) (written for the ABA Section of Legal Education and Admissions to the Bar).



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## Collaboration Training With an Eye Toward Outcomes and Assessment



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As legal writing professors, we are at the forefront of the outcomes and assessment movement. Although many of us may not have been using the widely-accepted terminology (student learning outcomes (SLOs), formative measures, and summative assessment), we are in a good position to answer the American Bar Association's recent call for identified output measures. We can build on what we already have been doing in our legal writing courses, adding a renewed focus on what students actually take away from their educational experiences.

As legal writing professors begin to formally draft course outcomes, we should look beyond traditional educational objectives and also explicitly include social and psychological outcomes such as the development of students' collaboration and cooperation skills. We must train law students to work well together and give them the self-confidence to complete the task.

Good teaching practice develops reciprocity and cooperation among students. After completing a legal writing course, students should display a keen ability to work collaboratively and cooperatively with others in a professional setting. For example, students should be able to provide useful feedback to their peers and accept constructive criticism from their colleagues. Also, students should be accustomed to working with a diverse group of people, which is increasingly important in the 21st century. Students should be able to work with clients, colleagues, or judges of any race, ethnicity, and gender, who may have different perspectives and experiences.

Collaboration, especially collaborative writing, is far more common in law practice than students realize or their law school curriculum would suggest. Judicial law clerks often edit each other's work before submitting the final opinion to the judge. Lawyers work together on briefs and client letters and contribute sections for others to edit. Lawyers share ideas and read and critique each other's work. Therefore, professors must bring collaboration training to the law school classroom. Mastery of collaborative abilities requires knowledge and continuous practice. Students must refine their communication skills, develop strategies for problem-solving and resolving differences, and establish capacities for self assertion, integration, and self control. We can teach these skills and, at the same time, continue to sharpen students' legal writing abilities by incorporating peer critique exercises with an eye toward outcomes and assessment.

Whether you are revising current exercises or using peer editing for the first time, consider adopting the following steps to design a successful exercise. First, determine the learning goals for the peer critique. For an exercise in which students edit their peers' rule proofs or case explanations, the list of learning goals could include a number of proficiencies. For instance, the list of objectives could provide that students will be able to: identify the holding, rule(s), reasoning, and keys facts in the precedent case; critique and edit a piece effectively for content, clarity, and logical organization; critique and edit a piece effectively for grammar, syntax, and punctuation; evaluate their colleagues' written work critically; assess their own work product critically; and work collaboratively with colleagues on the assignment. Second, create a peer editing checklist that reflects these learning objectives. The checklist guides the review and specifies the criteria students will use to critique their peers' work. Third, provide students sufficient training. Students need to practice working as a team, providing constructive feedback, and making edits. Lastly, schedule sufficient time for a debriefing session in which students discuss the feedback with their peer group and share their experiences with the entire class. Professors should monitor the discussion closely to assess student learning and performance and note any ideas for future exercises. Also, consider collecting the completed checklists to document students' progress and encourage full participation.



Collaborative work is a key part of students' professional development. Professors should specifically add the performance of collaborative fundamentals to their lists of SLOs and use carefully crafted peer review assignments to develop students' teamwork, writing, and editing skills and assess their competencies. And as students become more accustomed to professors using collaborative and cooperative teaching strategies in their courses, professors can explore other innovative techniques that encourage the development of students' teamwork skills. In time, students will come to see their law school experiences as more than competitive endeavors; they will build a sense of community.

<sup>1</sup>Arthur W. Chickering & Zelda F. Gamsom, *Seven Principles for Good Practice in Undergraduate Education*, Am. Assoc. for Higher Ed. ERIC ED 281 491, 3 (Mar. 1987).

<sup>2</sup>Vernellia R. Randall, *Increasing Retention and Improving Performance: Practical Advice on Using Cooperative Learning in Law School*, 16 T.M. Cooley L. Rev. 201, 222 (2000).

<sup>3</sup>Lucia Ann Silecchia, *Of Painters, Sculptors, Quill Pens, and Microchips: Teaching Legal Writers in the Electronic Age*, 75 Neb. L. Rev. 802, 831 (1996).

<sup>4</sup>Robert Garmston, *Can Collaboration be Taught?*, 18 J. of Staff Dev. 44 (Fall 1997).

<sup>5</sup>For more discussion on key steps to creating a successful peer editing exercise, see Cassandra Hill, *Peer Editing: A Comprehensive Pedagogical Approach to Maximize Assessment Opportunities, Integrate Collaborative Learning, and Achieve Desired Outcomes*, 13 Nev. L.J. \_\_\_\_ (2011) (forthcoming publication).

**“Good teaching practice develops reciprocity and cooperation among students. After completing a legal writing course, students should display a keen ability to work collaboratively and cooperatively with others in a professional setting.”**

## Guaranteeing Outcomes in Student Conferences



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When I first started teaching Legal Research and Writing, I feared the individual student conferences on draft papers required by the syllabus. My fear came from knowing that students could and likely would ask questions in response to my written comments, and that I would be expected to do more than what I normally do with written comments because of these live conversations. My written comments are designed to encourage students to think and develop their analysis on their own; I often write comments as questions to guide their thinking. But, in the conference format, I wanted to do more for my students than just repeat my probing written comments; I wanted to be able to talk about specific suggestions and guide them to make improvements to their papers, but without going so far as to rewrite the paper for the student or do line by line edits.

In preparing for conferences, I tailored my agenda to each individual draft paper. Early in the semester, many conferences had the same agenda: make connections between conclusions and the case law that supports the conclusion; use facts from the memo problem and the case law; and use the paradigm to guide thinking and writing. As the semester went on, and students worked on more sophisticated assignments, my conference preparation became more individualized as students distinguished themselves from each other. Students generally nodded in agreement with my comments and suggestions or said something like, “oh, now I get it” or “I was trying to do that, but I see I did not quite make it.” With responses like these, I expected the students to make significant revisions to their final papers, but was disappointed in the lack of improvements to the final papers. I wondered what caused this disconnect between

the conference, when the student was engaged and seemed to understand how to approach the rewriting of the paper, and the final paper, which did not always reflect an understanding of how to improve the paper.

These disappointing results led me to rethink my conferencing approach with a goal of getting a positive outcome beyond a seemingly productive conversation. I wanted to see identifiable improvements in a student's paper, during and following each conference instead of just having a conversation with the student and hoping she would remember what we talked about when she went back to finalize her paper. In assessing the results of the conference, I wanted to see that a student used my feedback and our conference discussion to improve the paper, both in terms of the specifics we discussed and in making global improvements.

With these goals in mind, I restructured my conferences. Instead of preparing for a discussion led by me, I asked the students to develop an agenda of what they wanted to talk about<sup>1</sup>. In addition, before meeting with me in the conference, I returned the student's draft paper with comments and identified two or three sentences that we would rewrite during the conference. Most often, these sentences were part of the application section of a student's analysis, and I focused on sentences where the student created a gap in the analysis. I did not choose grammar-based sentences, even though grammar was sometimes an additional concern. Thus, students came to the conferences with a list of items to discuss and an understanding that we would do some writing during the conference.

Logistically, this conference model led to extending the conference length to 45 minutes rather than 30 minutes, and I asked students to bring their laptop computers with the most recent draft ready to be edited. Generally, the conferences started with a discussion led by the student's agenda items, and then we got to the hard part, doing some actual writing.

We turned to the first sentence highlighted in my comments, and discussed why this sentence was selected to be rewritten. In talking about the why, we started moving toward the how, though that was always the most challenging part of the process. A student could usually answer when I asked, "what are you trying to say here?" or "what is the purpose of this sentence?", but a student could not necessarily translate that answer into a quick rewrite. Using what the student said as a starting point, we worked through the sentence, sometimes taking five, ten, or even fifteen minutes to rewrite a single sentence.

This rewriting process led to immediate results and future benefits. Immediately, the student had a newly crafted sentence that was "right," a measurable outcome, and I saw the payoff of the conference and time spent making comments on the student's paper. The student's future benefit was using the rewritten sentences as models for rewriting other sentences or paragraphs in the paper. These rewritten sentences gave students a process-based approach to rewriting when they recognized a similar weakness elsewhere in the paper because they could take themselves through the same discussion we had in the conference that led to the improvement and make similar improvements elsewhere in the paper. Students also had a map for making global improvements to their papers, as they could see how the rewrites strengthened the paper, and then apply similar concepts to improve other parts of the paper, especially those parts we were unable to discuss during the conference. My future benefit came in assessing a student's final written product; I could compare the sentences rewritten in the conference to the rewritten sentences throughout the final paper to identify whether the student understood the specific and global applications of what we did during the conference. Thus, not only did this conference model guarantee an outcome for students and for me during the conference, it gave the students direction for further revisions and established an assessment tool students could use while revising their papers and I could use for evaluating the strength of their final papers.

<sup>1</sup>The student agenda-setting idea came from Christy DeSanctis & Kristen Murray, *The Art of the Writing Conference: Letting Students Set the Agenda Without Ceding Control*, 17 Persp. 35 (Fall 2008).

**"Immediately, the student had a newly crafted sentence that was 'right,' a measurable outcome, and I saw the payoff of the conference and time spent making comments on the student's paper."**



## CREAC Scramble: An Active Self-Assessment Exercise



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When I started teaching legal writing, one of my primary learning objectives for students was using and applying the CREAC paradigm to organize and develop their legal analysis. I taught CREAC in class, gave the students a short CREAC assignment early in the semester, and provided written feedback. But when I received the drafts of the students' next assignment, I quickly realized that despite my best efforts, many students did not understand CREAC or struggled to translate the feedback to more complicated memorandum drafts.

I needed a new approach to stress the importance CREAC, to engage the students in the learning process, and to help them understand the fundamentals of CREAC as a transferrable formula. I wanted to shift the focus from teaching to learning, and I wanted to expand the opportunities for assessment early in the semester. So, in the fall of 2008, I developed a new strategy to help the students learn how to use CREAC.

The process involves several stages of assessment and evaluation of student work during the first few weeks of the semester. First, I teach the CREAC paradigm in class. Next, the students complete a short CREAC analysis assignment on a simple issue using a fact pattern and one or two short, simple cases. The analysis assignment is a largely formative assessment. Although it is graded, it is an extremely small portion of the grade (3-5%). I have found that the students take the assignment more seriously and give a better effort when the assignment is graded. However, I emphasize that the real learning objective of the assignment is for the students to practice using CREAC before undertaking the more heavily weighted memorandum assignments. The students

gain a better appreciation for using and understanding CREAC after trying it for themselves and receiving feedback on their papers.

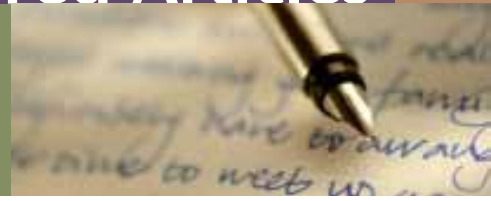
To reinforce CREAC and to help the students internalize the feedback on their assignments, the students next complete an assessment exercise I call the CREAC Scramble. I take a well-developed CREAC section from a longer, multi-issue memo with clearly demarcated CREAC sections, and I scramble the sentences from each part of the memorandum? into a random order. I number them and place them into a three-column table with the scrambled, numbered sentences in the center column. I label the left column "reordered sentence" and the right column "component? of CREAC."

Reordered Sentence	Sentence	Component of CREAC
	1. The information in the e-mails was not about private court proceedings or domestic disputes like the information in Taylor and Bennett.	

I distribute the CREAC Scramble during class, and the students first work individually to label each sentence as a "C," an "R," an "E," an "A," or a "C." Then the students renumber the sentences to put the CREAC back together in a logical order following the CREAC paradigm.

After the students work individually on the CREAC Scramble, they move into groups of three to four students to compare their renumbered, labeled sentences and to agree on the correct label and number for each sentence. As the students are working in the small groups, I observe the groups and listen to the various discussions about the correct label and order for each sentence.

Toward the end of class, I bring everyone back together to discuss the assignment and to reach an agreement on the answers to the assignment. Afterward, I give students the opportunity to ask questions, and I pass out two different answer keys. The first is a chart in which each sentence is correctly reordered and labeled. The second is the CREAC in its original paragraph form, so the students can see how the CREAC would appear in a real office memorandum. The answer keys enable students to self-assess their progress in using and understanding the CREAC paradigm.



This assignment is an excellent tool that compels the students to contemplate what makes each part of CREAC different. To advocate for their positions about each sentence, the students have to articulate to each other why they believe a sentence should be labeled with a certain letter, and why the numbering should be in a certain order. And, it provides another opportunity for self-assessment. When a student advocates that a sentence should be labeled incorrectly, another student often teaches the mistaken student about the different parts of CREAC and how to distinguish them. Peer teaching reinforces CREAC and provides the students with an active learning experience that helps them assess their progress using the CREAC paradigm. Armed with information from multiple assessments, the students are more confident and more successful at using CREAC.

A copy of the CREAC Scramble assignment is available in the 2010 Legal Writing Institute Idea Bank.

<sup>1</sup>This assignment could easily be adapted to other paradigms, such as IRAC, CRAC, etc.

<sup>2</sup>This assignment does not necessarily have only one correct answer. Many of the sentences, particularly in the “E” and “A” may have slightly different ordering of sentences, which is fine. The most important part of the assignment is for the students to correctly label each part of CREAC and to have each section progress in a logical order.

**“I needed a new approach to stress the importance CREAC, to engage the students in the learning process, and to help them understand the fundamentals of CREAC as a transferrable formula.”**

## Lessons Learned in Giving Writing Exams



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For the past several years I have given a closed-book writing exam similar to the Multi-State Performance Test portion of the bar exam, requiring students to draft an objective office memorandum. I have learned many lessons about drafting an appropriate exam, and it has become an important and valuable assessment tool. Below are some of the questions I have confronted along the way.

**Why?** The primary goal for the writing exam is to assess whether my students have mastered basic written legal structure. Students cannot rely on their notes or on meetings with instructors to draft a structurally sound document; instead, they can rely only on their comprehension of the skills we have honed over the two preceding semesters.

**How long?** My exam is three hours. A 24 or 48 hour (or more) take-home exam more closely mirrors the practice of law and gives students time to reflect on and polish their documents. However, a seated exam assesses mastery of basic written legal structure most accurately.

**When?** Finding an appropriate block of time can be tricky. I give my exam near the end of the second semester, a week or two after providing feedback on the first of the semester’s two major writing assignments. Waiting any later is no better for the students, since that would interfere with their preparation for other exams and they would not yet have feedback on their second assignment anyway.

**How many sources?** To fairly assess students’ mastery of legal structure, the exam should contain enough sources to require synthesis and analysis, but not so many that a memo cannot be drafted in three hours. Students can

adequately handle a statute of a page or a bit more and three well-edited cases of about a page and a half to two pages. Much more and a good percentage of students will not be able to complete a full memo (some will not in any event).

**Write or provide the statement of facts?** Initially I required students to draft a statement of facts from depositions, affidavits, etc., as I would in a regular writing assignment, but it consumed too much time. Now I provide a statement of facts, but inform students that not all facts may be relevant, so they still have to identify the determinative facts. I also include a short office memo setting forth the precise issue to be analyzed.

**Require Citations?** I have used a variety of approaches to this issue. While drafting the citations is not overly time consuming, every minute counts. Since I also give a citation quiz, I have opted just to require a simple placeholder (ex: *Schmidt*, 1) to show an understanding of citation placement, allowing students to focus fully on the writing.

**How many points?** The exam is significant portion of my students' grade for the semester, usually more than the first major writing assignment, but a bit less than the second (final) writing assignment.

**Provide sources electronically and/or in hard copy?** I provide the cases, statutes, or other sources of law electronically. On rare occasions I will receive a complaint from a student who opted to handwrite the exam that those students who typed the exam had an advantage because they could cut and paste rules into their memo, thus saving time. I explain that (a) cutting and pasting rarely results in a well-crafted rule of law and (b) they presumably chose to handwrite because they felt they could do so more efficiently than type.

Once I worked through the above questions the writing exam provided both an excellent assessment tool and a motivator for students to really ensure that they understood basic written legal structure.

**"The primary goal for the writing exam is to assess whether my students have mastered basic written legal structure."**



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## The 90-Minute Memo – A Summative Assessment That Builds Confidence



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It is the third week in April. My students have just submitted a rewrite of their appellate brief, a lengthy document involving a complex Fourth Amendment issue. Earlier in the month, they performed oral arguments on this same problem, responding to questions and hypotheticals worthy of Justice Scalia. They are burned out. Exams are looming on the horizon. Some students are questioning whether they have what it takes to be practicing lawyers.

Enter “The 90-Minute Memo.” Students arrive in class knowing nothing more than that we will be doing a “writing exercise.” When I explain the nature of the exercise to them, they are incredulous. “You want us to research and write the ‘Discussion’ section of a legal memo in 90 minutes?? That’s too hard.” I assure them that not only are they capable of performing this task, but also that they will feel great when they have finished.

I distribute a short hypothetical involving a young woman who was arrested after she caused a car accident, while riding her bicycle under the influence of marijuana. The question is whether she can be properly charged with violating Illinois’ “DUI” statute. I tell students that the problem involves several related statutory provisions and one case. They are to begin researching the issue on-line; when they have located a relevant authority, they should write down its citation and I will give them a hard copy. If they have not found any relevant authority after 20 minutes, they should consult me.

Within 20 minutes, every student has located at least one key authority. And by the 90-minute deadline, every student has submitted to me, by e-mail, a legal analysis that is generally coherent and analytically correct. I applaud them and tell them they have just been

practicing law without a net. They leave class feeling empowered. The 90-Minute Memo exercise, however, serves an important purpose beyond merely building student confidence. It is a summative assessment for measuring learning outcomes, including the ability to:

- 1) Identify research terms and use them efficiently to locate relevant statutes and cases on-line;
- 2) Elicit a statute’s operative legal rule and identify its component elements or factors;
- 3) Elicit the operative legal rule and holding from a case;
- 4) Use the structure of a legal rule (i.e., elements or factors) to organize a legal analysis;
- 5) Use “CREAC” (or similar organizational model) to structure an individual issue analysis;
- 6) State legal rules succinctly and accurately;
- 7) Describe case holdings and facts succinctly and accurately;
- 8) Apply legal rules to facts;
- 9) Complete an assignment under a short deadline; and
- 10) Work independently.

The last two learning outcomes are critical because they typically receive little attention in the first-year Legal Writing curriculum. Unlike traditional memo and brief assignments, which students write over a multi-week period—sometimes with substantial guidance, the 90-Minute Memo exercise replicates the law practice experience, where attorneys often work independently under short deadlines.

The exercise therefore fills a significant gap in the Legal Writing curriculum. Moreover, it advances the ABA’s mandate to develop a variety of assessments for measuring learning outcomes, including “competency as an entry-level practitioner.”

<sup>1</sup>A copy of the assignment, along with two sample memos, is available on the LWI Idea Bank under “Exercises,” [http://lwionline.org/idea\\_bank.html](http://lwionline.org/idea_bank.html).

<sup>2</sup>Summative assessments measure “the degree of student learning” at the culmination of a particular course.

In contrast, formative assessments “provide meaningful feedback to improve student learning” periodically throughout a course or “over the span of a student’s education.” May 5, 2010 Draft of ABA Standard 304, Assessment of Learning Outcomes, Interpretation 304-1, [www.abanet.org/.../Drafts%20for%20Consideration/Student%20Learning%20Outcomes%20May%205%202010%20draft.doc-2010-05-27](http://www.abanet.org/.../Drafts%20for%20Consideration/Student%20Learning%20Outcomes%20May%205%202010%20draft.doc-2010-05-27).

The typical legal memo and brief assignments in first-year Legal Writing are formative assessments. Traditionally, this course has not used summative assessments.

## Techniques to Assess Learning Outcomes in Contract Drafting Courses



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Professors teaching contract drafting face a unique difficulty in assessing learning outcomes. Professors need to assess whether students have learned crucial drafting skills, including the ability to independently draft contracts that are organized, fair, legally compliant, protective of client interests, complete, unambiguous, concise, and precise. Through law libraries, Westlaw, Lexis, and the internet in general, students have countless form contracts at their fingertips. When grading, how do professors determine if a student has demonstrated the desired learning outcomes or simply copied a good form, tweaked it, and turned it in? This article provides five techniques to help professors create assignments from which they can assess whether students have achieved the various learning outcomes in a contract drafting course.

1. Require students to turn in each step of the process: Many professors teach students to draft a contract using multiple steps, such as (1) understanding the audience, (2) gathering facts, (3) learning applicable law, (4) organizing and outlining the contract, (5) drafting each provision, (6) testing for consequences, and (7) editing. Professors should require students to document their work at each step in the drafting process. If professors see only the finished contracts, they cannot know whether students independently worked through the process, or just tweaked a decent form. Seeing how the contract developed through each step allows professors to assess a student's ability to conceptualize, research, organize, outline, draft, troubleshoot, and polish a contract.
2. Provide semi-helpful forms: When assigning a drafting project such as a lease, professors may provide a form lease that they have carefully selected and tell students

to use the form for general guidance. Professors can manipulate the form to create deficiencies that students will have to spot and correct. In grading the students' contracts, professors can assess how well students thought through the drafting process by adding or subtracting from the form where appropriate, using their own language, and creating their own documents using the form only as an aid, not a substitute, to the drafting process.

3. Integrate research into assignments: Professors can design assignments in which the client desires a number of provisions: some of which would be valid, and some of which would be illegal. Students must research to determine which provisions would be illegal and then explain in a client letter or an office memo why those provisions cannot be included in the contract. This wrinkle allows professors to assess a student's ability to spot troublesome provisions and to research within the context of drafting a contract.
4. Assign an in-class graded exercise: Professors may designate a class period near the end of the semester in which each student drafts a contract in class without the aid of any forms. Because students do not have forms available as a crutch, professors can assess how well a student learned nuts-and-bolts drafting skills. These skills include organizing logically, applying headings, using proper terms, and writing clearly and concisely.
5. Assign an end-of-the-course exam: Well-designed writing assignments allow professors to assess students' writing skills, but they may not uncover whether students learned important substance during the course. For example, a student might draft solid representations into a contract. However, that student may not remember that different consequences attach to representations as compared to warranties. A final exam allows professors to ask such questions and to assess not just the skills, but also the knowledge students gained.

Students who simply find and tweak forms likely have not learned the skills needed to draft contracts on their own—an essential outcome for a drafting course. By using the above techniques, professors will be able to better assess whether their students have gained and can apply the knowledge and skills that are important to a contract drafting course.

<sup>1</sup>See Susan L. Broady et al., *Legal Drafting* 23-50 (1994) (explaining these seven steps).

# From the Desk of the Legal Writing Specialist



## Haggling, Wrangling, and Volleying with the Text



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All of us have witnessed it: the frazzled, at-the-end-of-her-rope, 1L student who has very little left to give to the writing process. She selected her cases (with some confidence); she used the IREAC structure (or so she thinks); she analogized and distinguished her facts (hopefully the relevant facts); she tried to avoid being conclusory (whatever that means); she'll check her cites, grammar, and mechanics (the day before handing it in)... She is finally finished!

Alas, were this only true. It is only now, after thinking, assimilating, synthesizing, and articulating that her real work begins—editing. But the term “editing” fails to capture how gritty, difficult, and time-consuming the process is. “Haggling, wrangling, and volleying” more aptly describe what it means to edit. You know how it works. Start with a thought, a few sentences, or words even, and then try to bring them to life by selecting the precise words, phrases, and grammatical structures that artfully capture your intent. I catch myself wrangling in my mind's eye. I'm repeating, shuffling, wrestling down my ideas and then finding the vehicles to carry them. The process reminds me of playing Scrabble—I'm shifting the letters in my little tray in numerous variations until something gels.

We, as writing folk, know that editing is a huge part of writing. We tell our students it is a huge part. We expect them to do it. We richly reward those few students who have the skill of editing and are able to use it before handing in their assignments. However, as a writing specialist, whether I'm sitting down one-on-one with a student or teaching a workshop, I'm less and less surprised to learn that most students have little to no experience wrangling with the text. As undergraduates, many have had few substantial writing opportunities—let alone any demands on them to try and coax their language to sing.

Where, then, will law students learn this process? Certainly, students will be introduced to editing in their legal writing courses—but 1Ls are juggling countless new skills, so much so, that their cognitive load is quite burdened. Receptivity to wrangling is unlikely. Writing specialists are uniquely situated to nurture this habit.

Nurturing the editing habit takes some time and skill. I could show a student a pitiful, meager sentence and then contrast it with a new and improved sentence, pointing to it and espousing the value of editing. But merely showing the result of a process lends little insight into the process itself. When possible, and if the student is at such a place to absorb my message, I model the process for her. I shift and toss the words around aloud. The student joins in and wrangles with her words and phrasing and volleys them back to me: a mini-collaboration on the surface, an occasion for individual learning below the surface. Even modeling, however, is not enough. Students require many practice occasions. Yet in law school everything conspires against such practice occasions: heavy course loads, odd legal language and customs, monumental reading assignments, institutional practices, and so forth.

Words have a momentum or force of their own, that, once on paper, tends to gain power and thus ends up leading the writer instead of the writer leading the words. Through wrangling, haggling, and volleying with the text, the writer regains control over the direction and content. Through wrangling, haggling, and volleying, the text comes closer to excellence that we, the bench, and bar frequently allude to. If we mean what we say about good writing being vital to our future practitioners, we as educators must find meaningful opportunities to model, collaborate, and hold students seriously accountable for exercising the fine art of haggling, wrangling, and volleying with their writing. In doing so, we can build long-lasting writing habits in students that transfer to the real world once they graduate.

“‘Haggling, wrangling, and volleying’ more aptly describe what it means to edit.”



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Sophie Sparrow, *Describing the Ball: Improve Teaching by Using Rubrics - Explicit Grading Criteria*, 2004 *Mich. St. L. Rev.* 1.

Dannelle D. Stevens & Antonia J. Levi, *Introduction to Rubrics: An Assessment Tool To Save Grading Time, Convey Effective Feedback and Promote Student Learning* (Stylus, 2004).

Materials from the *Legal Education at the Crossroads v. 3: Assessment Conference*, Denver, Colorado, September 11-13, 2009 – including video, handouts, and PowerPoints – can be found here: <http://bit.ly/16aTO4>

## Publications, Presentations and Program News

### Program News

#### Hamline University School of Law

The faculty in the Hamline University School of Law Legal Research and Writing Department are excited to announce the implementation this fall of a required three-semester legal research and writing curriculum for all students. This new curriculum incorporates both litigation and transactional skills; substantially expands research skills training; and provides generally for increased writing, and feedback opportunities.

#### The University of Miami School of Law

The University of Miami School of Law launched a new legal research and writing program, replacing primarily adjunct faculty with a director and twelve full-time faculty members. The new team designed a curriculum that focuses on making students practice-ready and prepares them to join a professional community. The faculty members are Jamila Alexander, Jill Barton, Danton Asher Berube, Alyssa Dragnich, Christina M. Frohock, Kurt W. Lenz, Peter Nemerovski, Shara Kobetz Pelz, Kay Seibert, Rachel Heather Smith, Rachel Stabler, and Annette Torres. Rosario Lozada Schrier, Associate Professor of Clinical Legal Education, directs the Legal Communication and Research Skills program.

#### Vermont Law School

The Legal Writing Program at Vermont Law School welcomed Professor Teresa Godwin Phelps to campus as our J.ALWD Visiting Scholar in Rhetoric and Writing on October 4 and 5. Professor Phelps, the Director of the Legal Rhetoric Program at American University, Washington College of Law, gave three presentations during her visit. Her first talk, co-sponsored by the Diversity Committee at VLS, was entitled, "After the Violence and Oppression: Truth Commissions and Their Consequences in Latin America." Professor Phelps' keynote address was entitled, "Developing Strong Poets in Legal Writing." Professor Phelps also led a faculty colloquium focusing on her work-in-progress, "The Ethics of Storytelling: Narrative and Human Rights." All three talks were well attended and well-received. We would like to thank the Journal of the Association of Legal Writing Directors for making Professor Phelps' visit possible.

### Hiring & Promotion

#### Mercer Law School

**Jennifer Sheppard** was promoted to Associate Professor of Law.

#### Southern University Law Center

**Gail Stephenson**, Director of Legal Analysis and Writing at Southern University Law Center, received tenure and a promotion from Assistant to Associate Professor this year.

#### The Sandra Day O'Connor College of Law at Arizona State University

**Carrie Sperling** and **Kim Holst** have become permanent members of the faculty teaching Legal Method & Writing, Legal Advocacy, and other courses. Professor Sperling previously taught at the University of Oklahoma and visited at ASU. Professor Holst joins ASU after teaching at Hamline and serving as an adjunct at the University of Minnesota.

#### Seattle University

Seattle University is pleased to welcome **Sara Rankin**. Before joining Seattle University's faculty, Professor Rankin was a partner at the Chicago office of Kirkland & Ellis and taught legal analysis, research, and communication at DePaul College of Law. Professor Rankin's areas of interest include legal education reform, social justice, and public interest law.

#### Suffolk University

**Gabriel Teninbaum** was promoted to Associate Professor of Legal Writing.

#### Touro Law Center

**Joan Foley** has been promoted from Assistant Professor of Legal Process to Associate Professor of Legal Process at Touro Law Center.

#### The University of Denver Sturm College of Law

The University of Denver is pleased to announce that **Kenneth Chestek** was a visitor in the Lawyering Process Program for the fall 2010 semester, and that **Genevieve Boarman** and **Emily Praisner** are visitors for the 2010-1011 academic year.

#### University of the Pacific, McGeorge School of Law

**Maureen Watkins** is a new Global Lawyering Skills professor at University of the Pacific, McGeorge School of Law. She comes to Sacramento from Germany, where she practiced transnational litigation for many years. She also brings recent experience in teaching legal writing, having taught the subject for six years at National

University in Singapore. Pacific McGeorge also hired four new adjuncts to teach in its Global Lawyering Skills program: Justin Altmann, Judge Thadd Blizzard, Caitlin Manoogian, Mike Cobden.

#### Western State University College of Law

Western State University College of Law has hired two new full time legal writing professors: **Eunice Park** and **Stephen Chavez**. Both are Assistant Professors of Lawyering Skills.

#### Willamette University College of Law

M H Sam Jacobson has taken early retirement from Willamette University College of Law and looks forward to continuing to write on a variety of legal education and administrative law issues, and to staying involved with the legal writing community.

## Publications, Presentations & Accomplishments

**Angela A. Allen-Bell** published *Bridge Over Troubled Waters and Passageway on a Journey to Justice: National Lessons Learned About Justice from Louisiana's Response to Hurricane Katrina* in volume 46 of the California Western Law Review in Spring 2010.

**Mary Ann Becker**, DePaul University, wrote *What is Your Favorite Book?: Using Narrative to Teach Theme Development in Persuasive Writing*, which will be published in the Gonzaga Law Review Spring 2011. You can access her article at [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1604146](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1604146).

**Linda Berger, Suzianne Painter-Thorne, and Karen J. Sneddon** of Mercer Law School presented at the 2010 Summer Conference of the Institute of Law Teaching and Learning on "Not Your Mother's Rhetoric: Teaching Rhetorically Across the Curriculum."

**Timothy D. Blevins** had a limited edition book of articles for use in his LEAP program published by Aspen in June 2010. In addition to materials authored by him, articles were attributed to many other members of the Legal Writing Institute.

**Timothy D. Blevins** was named Director of Florida A&M University, College Of Law's summer pre-law, conditional-admit program, LEAP; he was elected member of J. ALWD editorial board as an Associate Editor; and Florida Governor Charlie Crist issued a commission appointing him to fulfill an unexpired term on the Orange Soil &

Water Conservation Board of Supervisors.

**University of the Pacific, McGeorge School of Law**  
**Adrienne Brungess** was recently named the Director of the Capital Certificate Program at University of the Pacific, McGeorge School of Law.

**Susan M. Chesler** of the Sandra Day O'Connor College of Law at Arizona State University, Sue Payne of Northwestern University School of Law, Karen J. Sneddon of Mercer Law School presented "Beyond Boilerplate: Learning Effective Drafting Techniques for Contracts and Wills" at the Fourteenth Biennial Conference of the Legal Writing Institute.

**Jenny Darlington-Person**, University of the Pacific, McGeorge School of Law, presented *Hitting the Mark: Using the Game of Darts to Teach Selection of Authority* at the LWI Conference in July 2010.

**Bill Dorothy**, Washington University Law in St. Louis Professor of Practice, was appointed Special Pretrial Master in the United States District Court for the Southern District of Illinois in January 2010. The appointment involved two attorneys' exceedingly contentious series of discovery disputes. By the time Professor Dorothy was appointed, the parties had managed to file fifteen pending motions. Combined with the motions, the memoranda and exhibits totaled well-over four thousand pages of documents. He completed his fifty-nine page Report and Recommendation in May. He also was assigned to attend depositions in order to supervise the attorneys' professionalism and civility practices. The court has adopted, with minor revisions, all of his recommendations.

**Mary L. Dunnewold, Beth A. Honetschlager, and Brenda L. Tofte**, Hamline University School of Law, published *Judicial Clerkships: A Practical Guide* with Carolina Academic Press. The book is a one-stop-shop for information about clerking for judges, including the role of judicial clerks in different types of courts, the application and selection process, the drafting of specific judicial documents, and the ethical dilemmas clerks face as privileged members of a chambers staff.

**Mary L. Dunnewold**, Hamline University School of Law, published a column on *Professionalism*, 28 A.B.A. Student Law 12 (2010), and published *Why Are We Here?*, 59 J. Legal Educ. 63 (2010), an article about a student writing competition held at Hamline.

**Mary Falk and Elizabeth Fajans**, Brooklyn Law School,



have a forthcoming fourth edition of *Scholarly Writing for Law Students* (Winter 2011).

**Jennifer Gibson**, University of the Pacific, McGeorge School of Law, presented her poster Integrating a Mediation Component in a First- or Second-Year Legal Writing/Skills Course at the LWI Conference in July 2010.

**Cynthia Godsoe**, published an oped on *Restoring Families* in the National Law Journal.

**Cynthia Godsoe**, Brooklyn Law School, with her colleague **Aliza Kaplan**, who was recently promoted to Associate Professor of Legal Writing, created and is teaching a new course on "Public Interest Lawyering: Theory and Practice" which helps students gain the writing and other skills necessary to enter the public interest field. Cynthia was also recently appointed as the Next Friend/Guardian ad Litem for a minor plaintiff in class action lawsuit on behalf of foster children in psychiatric facilities, *A.M. v. Mattingly*, CV-10-2181 (E.D.N.Y.).

**Cynthia Godsoe**, Brooklyn Law School, presented her paper *All in the Family: Towards A New Representational Model for Parents and Children* at the Family/Children & Law Junior Faculty Workshop at the William and Mary School of Law in July and at the University of Oregon School of Law Oregon Child Advocacy Project Conference last April. The article is going to come out in a future issue of the Georgetown Journal on Legal Ethics.

**Hether Macfarlane** was recently named the Faculty Advisor to the Certificate Program in International Legal Studies at Pacific McGeorge.

**Kathleen Dillon Narko**, Clinical Associate Professor of Law at Northwestern University School of Law, and a member of the school's Communication and Legal Reasoning faculty, was recently appointed by the school's provost to serve on the Dean Search Committee. The committee is responsible for identifying and making recommendations regarding potential dean candidates to replace David Van Zandt, Northwestern's current dean, who is departing the law school effective January 1, 2011.

**M H Sam Jacobson**, *The Curse of Tradition in the Law School Classroom: What Casebook Professors Can Learn from Those Professors Who Teach Legal Writing*, 61 Mercer L. Rev. 899 (2010).

**M H Sam Jacobson**, *Paying Attention or Fatally Distracted? Concentration, Memory, and Multi-Tasking in a Multi-Media World*, 16 J. L.W.I. 419 (2010).

**M H Sam Jacobson**, *The Legal Writer: Are You Dense? Editing obtuse writing*, *Oregon State Bar Bulletin*, Aug./Sep. 2010, at 13.

**M H Sam Jacobson**, *The Legal Writer: Taskus Interruptus - Good writing requires concentration*, *Oregon State Bar Bulletin*, May 2010, at 13.

**Elizabeth Jones**, Assistant Director of Professional Skills at Western State University College of Law, *School Daze: A Proposal for Education Code Reform In California*, *Southwestern Law Review*, forthcoming Spring 2011.

**Aliza B. Kaplan**, Brooklyn Law School, *A New Approach to Ineffective Assistance of Counsel in Removal Proceedings*, 62 Rutgers L. Rev. 345 (2010)

**Nancy J. Kippenhan** Assistant Professor of Law at Liberty University School of Law, presented her paper *Seeking Truth on the Other Side of the Wall: Greenleaf's Evangelists Meet the Federal Rules, Naturalism, and Judas*, at the Thirteenth Annual Conference of the Association for the Study of Law, Culture and the Humanities. The article is being published this fall: 5 Liberty U. L. Rev. \_\_\_\_ (2010).

**Tonya Kowalski**, Washburn University School of Law, has two publications coming out soon, *True North: Navigating for the Transfer of Learning in Legal Education*, 34 Seattle University Law Review 51 (2010) (<http://ssrn.com/abstract=1478997>) and *Toward a Pedagogy for Teaching Legal Writing in Law School Clinics*, 17 Clinical Law Review 201 (<http://ssrn.com/abstract=1597429>).

**Jo Ellen Lewis**, Professor of Practice at Washington University Law in St. Louis, published an article entitled *Legal Writing Programs in Korean Law Schools: Possible Structures and Resources in the Journal of Korean Law*, published by the Law Research Institute at Seoul National University, in June 2010.

**Aliza Kaplan**, Brooklyn Law School, did a series of presentations this past summer at Brooklyn Technical High School about public interest lawyering and she was also a presenter at a forum called "Teaching Millennial Students" at Brooklyn Law School which is the subject of her current article.

**Hether Macfarlane**, University of the Pacific, McGeorge School of Law, presented Teaching After Dark: Evening Students and the LRW at the LWI Conference in July 2010.

**Hether Macfarlane**, presented Integrating International and Transnational Issues into a Legal Research

and Writing Curriculum at the Global Legal Skills Conference in Monterrey, Mexico in March 2010.

**Samantha Moppett**, Suffolk University Law School, had an article published this summer, *Acknowledging America's First Sovereign: Incorporating Tribal Justice Systems Into the Legal Research and Writing Curriculum*, 35 Okla. City U. L. Rev. 267 (2010) <http://ssrn.com/abstract=1474457>.

**Mary-Beth Moylan and Stephanie Thompson**, Director and Assistant Director of Global Lawyering Skills at University of the Pacific, McGeorge School of Law, had their article *Enduring Hope? A Study of Looping in Law School* published in the *Duquense Law Review* (Spring 2010).

**Mary-Beth Moylan**, *The Sovereign Rules of the Game: Campaign Finance Disclosure in the Face of Tribal Sovereign Immunity*, Boston University Public Interest Law Journal (forthcoming December 2010).

**Michael D. Murray** Valparaiso University School of Law, has recently published five updated chapters for *The Deskbook of Art Law* (Oxford Univ. Press. 2010), on Art: The Customs Definition, International Movement of Art, Theft of Art, Art: The Victim of War; and Preservation of Art and Cultural Property. He directed the London-Cambridge Program of Valparaiso University School of Law, and taught a course at Cambridge on International and Comparative Civil Liberties: Freedom of Expression.

**Michael D. Murray**, Valparaiso University School of Law made numerous presentations: *Rhetorical Perspectives on Explanatory Synthesis and the TREAT Paradigm—Classical Rhetoric and Law and Economics*, at the How Legal Rhetoric Shapes the Law: Pedagogy, Theory, Practice Conference at American University School of Law, Washington DC, Oct. 15, 2010; *Authentication, Valuation, and Verification*, Fitzwilliam Museum, Cambridge University, Cambridge, UK, July 14, 2010; *Two Ways of Looking at Cultural Artifacts: Cultural Property and Cultural Heritage*, The British Museum, London, UK, June 22, 2010; *Everything That Rises Must Converge: The Emerging Doctrine of Transformation and Predominant Purpose as the Governing Standard for Copyright Fair Use, Right of Publicity Fair Use, and the Censorship of Artistic Expression*, 13th Annual Association for the Study of Law, Culture, and the Humanities (ASLCH) Conference, Brown University, Providence, RI, Mar. 20, 2010.

**Suzianne Painter-Thorne**, *Tangled Up in Knots: How Continued Federal Jurisdiction over Sexual Predators on*

*Indian Reservations Hobbles Effective Law Enforcement to the Detriment of Indian Women*, *New Mexico Law Review* (forthcoming 2011).

**Suzianne Painter-Thorne**, of Mercer Law School has been named Managing Editor of the *Journal of the Association of Legal Writing Directors*.

**Suzianne Painter-Thorne**, of Mercer Law School and Rebekah Handley of the University of Oregon presented at the Fourteenth Biennial Conference of the Legal Writing Institute on "Writing to—and for—the Bench: How Legal Practitioners Can Help Judges Write Good Opinions."

**Suzianne Painter-Thorne**, was invited to speak at the University of South Carolina's Race and the Family Conference, being held October 14-15, 2010, on the topic of the Indian Child Welfare Act. My presentation is called, "Ill Defined & Misunderstood: 'Indians,' 'Family,' and the Indian Child Welfare Act."

**Sarah E. Ricks**, Rutgers-Camden, with contributions by **Evelyn Tenenbaum**, Albany Law School, authored *Current Issues in Constitutional Litigation: A Context and Practice Casebook* (Carolina Academic Press, forthcoming November 2010). The book focuses on the constitutional and statutory doctrines necessary to litigate 4th, 8th, and 14th Amendment claims, and 1st Amendment religion claims that arise in prison. The practical approach attempts to implement the recommendations of the Carnegie Report and Best Practices. The casebook is part of the Context and Practice Series designed and edited by Michael Hunter Schwartz.

**Lori Roberts**, Director of Professional Skills at Western State University College of Law, wrote an article, *Assessing Ourselves: Confirming Assumptions and Improving Student Learning by Efficiently and Fearlessly Assessing Student Learning Outcomes*, that will be published in the *Drexel Law Review* this Spring.

**Nancy Schultz**, Chapman University School of Law, and **Louis Sirico**, Villanova Law School, have published the fifth edition of "Legal Writing and Other Lawyering Skills" (Aspen).

**Louis Sirico**, Villanova Law School, has published *Stopping Nuclear Power Plants: A Memoir*, 21 Villanova Environmental Law Journal 35 (2010).

**Carrie Sperling**, Sandra Day O'Connor College of Law, Arizona State University, has an article *Priming Legal*

*Negotiations Through Written Demands*, forthcoming with Catholic University Law Review volume 60. It is available on SSRN at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1661145](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1661145).

**Gail Stephenson**, Director of Legal Analysis and Writing at Southern University Law Center, published an article, *Reaching the Top of the Docket: Louisiana's Preference System*, 56 Loyola L. Rev. 155 (2010).

**Kenneth R. Swift**, Hamline University School of Law, published *The Public Policy Exception to Employment At-Will: Time to Retire a Noble Warrior?*, 61 Mercer L.Rev. 551 (2010).

**Carrie W. Teitcher**, Brooklyn Law School, presented a talk on the use of student response systems in the classroom, *"To Click or not to Click? Using Clicker Technology in the Legal Writing Classroom"* at the First Annual Empire State Legal Writing Conference on May 14, 2010 at Hofstra University School of Law. Together with Brooklyn Law School's Library Director, Victoria Szymczak, Prof. Teitcher discussed using clicker technology in the Legal Writing classroom to foster a collaborative and interactive classroom experience.

**Ed Telfeyan** was officially titled Director of the Moot Court Program, which is part of the Pacific McGeorge Advocacy Program that was ranked 5th in the US News reports.

**Ed Telfeyan**, University of the Pacific, McGeorge School of Law, presented "The White-Glove Inspection: Making Sense of Proof-reading and Polishing" at the Empire State Conference in May 2010 and "Outlining from Scratch: How to Make the Process Meaningful" at the LWI Conference in July 2010.

**Gabriel Teninbaum**, Suffolk University, recently published an article written last summer under an ALWD/LWI grant, *Reductio ad Hitlerum: Trumping the Judicial Nazi Card*, 2009 Mich. St. L. Rev. 541. If you'd like an abstract, you can get it at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1445423](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1445423). He also wrote, *Who Cares?* Which will be published in the Drexel Law Review. If you'd like an abstract, you can find it on SSRN at: [http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1666916](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1666916)

**Gabriel Teninbaum**, Suffolk University, taught "Persuasive Legal Writing in a Global Context," in the Suffolk Law "Summer in Sweden" Program in Lund, Sweden. Teaching in this program was a first-ever for

a Suffolk LPS person to teach in one of their summer abroad program and he was one of the first people in the whole LRW community to teach a course (a) devoted solely to applying persuasion theory and (b) in a foreign summer program.

**David Thomson**, University of Denver, Sturm College of Law, *Skills & Values: Discovery Practice* (LexisNexis/Matthew Bender 2010). More info here: [www.discoveryskills.com](http://www.discoveryskills.com)

**David Thomson**, *Mile High Summit on Training: Are Things Coming to a Peak?* Presentation to the American Association of Law Libraries, Denver, Colorado, July 11, 2010 (panel discussion with Victoria Szymczak (Brooklyn), Tommy Preston (South Carolina), Linda-Jean Schneider (Drinker, Biddle LLP) and Molly Peckman (Dechert LLP)).

**David Thomson**, *Keynote Speaker, Conference of the New England Association of Law Librarians*, Portsmouth, NH, April 23, 2010.

**Stephanie Thompson**, *Legal Writing Exercises: A Case File and Formula-Based Approach to Legal Reasoning* (West 2010).

**Stephanie Thompson** presented her poster the Interactive Research Workshop at the LWI Conference in July 2010.

**Marilyn R. Walter**, Brooklyn Law School, published *"Writing as Conversation": Using Peer Review to Teach Legal Writing*, 16 Legal Writing 411 (2010). The article arose out of the 2010 Symposium "The Legal Writing Institute: Celebrating 25 Years of Teaching & Scholarship."

**The University of the Pacific, McGeorge School of Law**, The Global Lawyering Skills faculty, in cooperation with the Pacific McGeorge law librarians, created the Essential Lawyering Skills MCLE program for local practitioners, which was held in May 2010. All members of the Global Lawyering Skills faculty presented at this program.





In early December, 2010, the Legal Writing Institute (LWI) will hold one-day workshops at 16 locations nationwide. Taught by experienced legal writing professors, librarians

and writing specialists, the workshops are designed for new legal research and writing professors and adjuncts. They will also benefit seasoned educators looking for practical ideas and insights on handling some of the more challenging aspects of this growing academic field. Presenters will offer tips and best practices for creating appropriate assignments, grading papers and holding student conferences. They will also discuss recent developments in teaching legal research and professional development. All workshops will be held from 9 a.m. to 6 p.m. on December 3, 2010 unless otherwise noted at the following locations:

American University Washington College of Law, Washington, D.C.  
California Western School of Law, San Diego, CA  
Charleston University School of Law, Charleston, SC (Friday, December 10, 2010)  
Atlanta, Emory University School of Law, GA  
Pepperdine University School of Law, Malibu, CA  
Santa Clara University School of Law, Santa Clara, CA  
Seattle University School of Law, Seattle, WA  
St. John's School of Law, New York, NY  
Stetson University College of Law, Tampa, FL  
Suffolk Law School, Boston, MA  
The John Marshall Law School, Chicago, IL  
University of Dayton School of Law, Dayton, OH  
University of Tennessee, Knoxville, TN (Saturday, December 4, 2010)  
University of Tulsa College of Law, Tulsa, OK  
Wake Forest University School of Law, Winston-Salem, NC  
Widener University School of Law, Wilmington, DL

Registration is \$100 and will be donated to LWI. Please register online at [http://www.lwionline.org/lwi\\_conferences.html](http://www.lwionline.org/lwi_conferences.html) and click on the location where you want to attend.

For more information about the one-day workshops, visit this page: <http://lawprofessors.typepad.com/legalwriting/2010/10/lwi-one-day-workshops.html>



The Second Colonial Frontier Legal Writing Conference will be held on Saturday, March 5, 2011, at the **Duquesne University School of Law** in Pittsburgh, PA. The theme of the conference will be "The Arc of Advanced Legal Writing: From Theory through Teaching to Practice."

**The University of the Pacific, McGeorge School of Law** will be hosting the ALWD conference June 23-25, 2011.

**The University of Denver Sturm College of Law** will be hosting the Third Biennial Applied Legal Storytelling Conference on July 8-10, 2011.



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