



LegalWriting
institute

Workload Toolkit

Prepared by LWI's Professional Status Committee

March 13, 2020

Description of this toolkit:

This Toolkit on workload issues compiles resources that the Legal Writing Institute's (LWI's) Professional Status Committee (PSC) expects will be helpful to our members in negotiating teaching or workload issues. It includes (1) a brief description of publicly available information that is potentially relevant; (2) a brief description of non-public information that may be available on request from the PSC; (3) a discussion of strategic considerations and concerns that members should consider in crafting arguments; and (4) a list of LWI members willing to provide further support or serve as a sounding board on workload issues.

If you have feedback on this Toolkit, including any information that you think should be added to a future version, please contact PSC committee co-chair Mary Bowman at mary.n.bowman@asu.edu with that feedback.

1. Publicly available information

This section contains a variety of publicly available information that the committee thinks may be relevant for arguments, although we do not vouch for the accuracy of this material in detail.

1.1 Surveys/empirical data

1.1.1 The ALWD/LWI joint survey

Since 1999, LWI and the Association of Legal Writing Directors (ALWD) have jointly sponsored a survey of legal writing programs. The results of those surveys are available at <https://www.lwionline.org/resources/surveys> and <https://www.alwd.org/resources/survey>. The most current survey results available are from the 2018 survey; there are also results available from 1999-2015 and 2017. Note that the format of the survey changed in 2017; the change provides new information and new detail on some topics but also loses some information that had been collected in prior surveys. The section below provides detailed information about the relevant questions from the most current version of the summary and some additional information about workload topics covered in prior versions of the survey.

The Survey Report from 2018 is available at <https://www.lwionline.org/sites/default/files/Final%20ALWD%20LWI%202017-18%20Institutional%20Survey%20Report.pdf>.

The following questions on the current version of the survey deal with workload issues:

- Q4.12 (re. “[f]ocus of the teaching and administrative load for the full-time faculty with . . . specified contract status”);
- Q6.2 - 6.3 (re. how many required LRW courses and how many credits those courses represent);
- Q6.6 (re. teaching focus and administrative load of professors who teach the required LRW courses)
- Q6.8 - 6.9 (typical credits, in-class hours, and student numbers for required LRW courses)
- Q6.10-12 (re. grading of required LRW courses);
- Q7.5 (re. typical number of credits, in-class hours, and average student load for elective LRW courses);
- Q10.8 (re. committee service);
- Q10.17 (re. opportunities to teach non-LRW courses);



- Q10.18 (re. average number of students per academic term in LRW courses);
- Q11.5 (re. typical length of annual contract, e.g. 9 months or 12 months);
- Q11.33 - 11.37 (re. scholarship standards & expectations);
- Q14.4 - 14.6 (re. workload of teaching fellows if used in the program model, including typical number of students and courses taught)
- Q14.7 (re. supervision of teaching fellows);
- Q15.8 - 15.11 (re. workload of part-time faculty, including number of students, typical hours per week, and whether they can/do have another job);
- Q15.14 - 15.15, 15.23 - 15.24 (re. supervising, mentoring, and training of part-time faculty);
- 16.6, 16.10, 16.20 -16.21 (re. supervision , mentoring, and training of adjuncts)
- Q17.13 (re. training of TAs if used in the program model);
- Q18.7 (re. responsibilities of Writing Specialists); and
- Q 19.2 (re. whether there have been major changes in the current academic year or approved for future year regarding workload issues like number of full-time faculty, number of required credits or classes).

The 2015 and prior surveys included specific information about workload in question 82: number of students taught; in-class hours of teaching each week; number of major and minor assignments; total number of pages of student work read per term; total hours in conference required or strongly recommended; total hours preparing major research and writing assignments; and total hours preparing for class (excluding preparing assignments). The results of those older surveys are available at <https://www.lwionline.org/resources/surveys>.

1.1.2 Professional Status Committee survey

The PSC also surveyed LWI's membership about a variety of status issues in 2016 and 2018 and will do so again in 2020.¹ Members of the PSC presented the results of these

¹ Unlike the ALWD/LWI joint survey, the PSC's survey allows for multiple individuals from the same school to respond. So do not assume that each response to the PSC survey represents a different school. For example, six respondents to the 2018 survey indicated that they have become eligible for travel or



surveys at the 2016 and 2018 LWI conferences; the PowerPoints from these presentations are available on the PSC's webpage at <https://www.lwionline.org/resources/status-related-advocacy>.

The survey includes the following questions about workload issues:

- Q11 asks about changes to teaching load that did not affect all faculty at respondents' law schools, including whether any additional compensation was received;
- Q12 asks whether respondents' "workload has increased" in various ways, including additional students, additional courses, additional service obligations, additional publication responsibilities, etc.
- Q13 asks about changes to the number of credits students earn in their required LRW courses; and
- Q14 & 15 ask about reductions in the number of faculty teaching LRW at respondents' schools.

1.2 Other Professional Status Committee resources

The PSC's webpage, <https://www.lwionline.org/resources/status-related-advocacy>, has additional resources that may be helpful:

- A member of the PSC conducted an informal survey in May 2019 to gather information about service on law school and university committees. A document summarizing the methodology and results of that survey is posted on the PSC webpage.
- The PSC's webpage also contains links to a list of schools where LRW faculty are eligible for tenure and a list of schools with autonomous LRW programs (i.e. programs that do not have a director). Those documents may be helpful in advocating for status changes, particularly given the fact that LRW faculty who have less security of position (e.g. short-term contracts) may have more difficulty pushing back against workload increases, as discussed in more detail below.

professional development funding after being ineligible in the past, but that does not mean that six schools made these changes.



1.3 Relevant books and articles

This section contains a sampling of books and articles that are particularly relevant to workload issues. These sources are included in the more comprehensive bibliography of status-related sources that is posted on the PSC's webpage, <https://www.lwionline.org/resources/status-related-advocacy>.

Books

- ABA Section of Legal Educ. & Admissions to the Bar, LEGAL WRITING SOURCEBOOK (J. Lyn Entrikin ed., 3d ed. 2020) (forthcoming in March or April 2020); you may have access to the second edition, which was called Sourcebook on Legal Writing Programs and published in 2006).
- William Ury, THE POWER OF A POSITIVE NO (2007).

Articles

- Renee Nicole Allen, Alicia Jackson & DeShun Davis, *The "Pink Ghetto" Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 U. DET. MERCY L. REV. 525 (2019).
- Susan B. Apel, *Gender and Invisible Work: Musings of a Woman Law Professor*, 31 U.S.F. L. REV. 993 (1999).
- Lorraine K. Bannai, *Challenged 3X: The Stories of Women of Color Who Teach Legal Writing*, 29 BERKELEY J. GENDER L. & JUST. 275 (2014).
- Mary Nicol Bowman, *Legal Writing as Office Housework?*, 68 J. LEG. EDUC. __ (forthcoming 2020), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3491965.
- Andrea A. Curcio and Mary A. Lynch, *Addressing Social Loafing on Faculty Committees*, 67 J. LEG. EDUC. 242 (2017).
- Linda H. Edwards, *The Trouble with Categories: What Theory Can Teach Us About the Doctrine Skills Divide*, 64 J. LEG. EDUC. 181 (2014).



- Susan P. Liemer, *The Quest for Scholarship: The Legal Writing Professor's Paradox*, 80 OR. L. REV. 1007 (2001).
- Teri A. McMurtry-Chubb, *On Writing Wrongs: Legal Writing Professors of Color and the Curious Case of 405(c)*, 66 J. LEG. EDUC. 575 (2017).
- Suzanne Rowe, *The Rising Tide in the Legal Writing Community: Lifting All Boats or Changing Climate?*, forthcoming in the Journal of the Legal Writing Institute 2020, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3550285.
- Kathryn M. Stanchi, *Who Next, the Janitors? A Socio-Feminist Critique of the Status Hierarchy of Law Professors*, 73 UMKC L. REV. 467 (2004).

1.4 Other relevant materials

There are a number of potentially useful TED Talks and podcasts that talk about issues relevant to managing workload concerns, including imposter syndrome and saying no. Here are some of these sources that we thought seemed particularly helpful.

- “Having the Courage to Say No” by Katherine Mulski, <https://www.youtube.com/watch?v=rMxKNMCNv9I> (TED talk)
- “What Is Imposter Syndrome and How Can You Combat It?” https://www.ted.com/talks/elizabeth_cox_what_is_imposter_syndrome_and_how_can_you_combat_it?language=en
- “Battle Tactics for Your Sexist Workplace” <https://www.npr.org/podcasts/615851215/battle-tactics-for-your-sexist-workplace>. The Battle Tactics for Your Sexist Workplace podcast has a number of excellent episodes. These include an episode on “office housework” from October 16, 2018 (“the danger of bringing cupcakes to work”) and an episode on imposter syndrome from July 24, 2018 (“how the patriarchy makes you feel like an imposter”).

2. Summary of information available upon request

The PSC has gathered some information that is more sensitive, so while it is not publicly posted on our committee’s webpage, it is available upon request to LWI



members who agree to treat this information confidentially. Please contact committee co-chair Mary Bowman if you would like to receive any of the following information:

- We have the detailed results from the PSC surveys in 2016 and 2018 regarding workload issues. Specifically, the survey results provide detail about changes to teaching load that did not affect all faculty at respondents' law schools; whether "workload has increased" in various ways (including students, courses, service obligations, etc.); and whether the number of people teaching legal writing has been reduced, and if so, how those reductions occurred (e.g. retirements, layoffs).
- We also have the raw data (without identifying information of faculty who completed the survey), for the 2019 survey on workload issues mentioned in section 1.2 above.

3. Strategic concerns and considerations

As you think about using the sources described above to craft arguments, consider the following issues that can affect workload arguments:

- *Equitable distribution of workload across all faculty versus unequal distribution of tasks (including invisible labor):* has your law school taken steps to intentionally equalize workload distribution and to hold all faculty accountable?
 - While some LRW faculty are fortunate to work at schools that value the contributions of all faculty, other colleagues are not. The unequal distribution of workload is particularly acute where the school has not provided equal security of position to LRW faculty. If you are at a school that does not provide tenure-track or 405(c) status to LRW faculty, you might also want to use the resources in the Security of Position Toolkit.
 - Legal writing faculty teaching loads often require more courses, or more hours a week per course, or both, compared to non-LRW faculty teaching loads. Moreover, LRW faculty likely spend far more time critiquing student work and providing formative assessment, and they may spend more time on individual or group conferences, than their non-LRW colleagues. These differential burdens can be exacerbated by fluctuations



in student loads from year to year (i.e. bringing in a larger 1L class than expected may disproportionately affect legal writing faculty).

- If you are at a school where status gains won't happen until legal writing faculty become productive scholars, then focus on efforts to create the conditions necessary for at least some legal writing faculty to produce scholarship. Lobby for equal access to research assistance, travel budgets, and scholarship stipends. Also consider attending one of LWI's scholarship development retreats or using other materials on scholarship development that are available on LWI's website at <https://www.lwionline.org/resources>.
- Advocate for expanding the view of what constitutes "scholarship" or significant contributions to intellectual life at your home institution. Beyond traditional scholarship – specifically, law review articles – promote the recognition of other rigorous, deeply analytical writing that should be considered on par with traditional scholarship. This might include drafting an amicus brief or writing a legal writing textbook.
- Also consider whether LRW faculty are eligible for other structural conditions that contribute to workload equity. For example, are LRW faculty eligible for sabbaticals (at all, or on the same terms as non-LRW faculty)? Are tenure-track LRW faculty or LRW faculty who have scholarship obligations given the same access to course releases, research assistance, funding to present/workshop papers, or other forms of structural support? Do they receive the same types of pre-tenure informal mentoring and more formal review as non-LRW faculty?
- Consider whether service work disproportionately affects LRW (particularly contract) faculty. For example, consider issues of committee composition (e.g. are LRW faculty largely placed on committees with heavier workloads?). Also consider distribution of tasks within committees (e.g. are LRW faculty to handle administrative burdens such as note-taking and room reservations)? Also consider whether these issues affect non-LRW contract faculty. Though minor, these additional

“invisible” responsibilities can accumulate and slow down productivity on more valued work.

- Also consider whether legal writing faculty bear disproportionate burdens in invisible labor, such as appearances at school or community events, writing letters of recommendation, and providing mentoring, especially to minority students. These responsibilities can be particularly acute for legal writing faculty of color and can also affect female and LGBTQ faculty as well.
- *Saying no (when and how)*. While it can often be difficult for many people to say no when asked to take on additional work, and this challenge can be particularly acute for faculty without tenure or 405(c) status, saying no when appropriate is an important part of managing workload and ensuring that you can effectively perform your responsibilities.
 - When asked to take on additional tasks, LRW faculty should think strategically about whether to say yes or no. In particular, be aware of self-sabotage risks by taking on more than you can realistically deliver, be careful of the role that impostor syndrome can play in over-committing, and consider whether you can make unique contributions to a project. In doing so, look for opportunities to help others, at your school or in the national legal writing community, develop their skills by saying no to certain tasks.
 - When you decide to say no, there are a variety of strategies that can be helpful in doing so effectively. William Ury’s book cited above suggests that we can assert a “positive no” to preserve relationships and protect our own interests; his book provides a framework and strategies for doing so. Suzanne Rowe’s short essay cited above in section 1.3 provides quick information on strategies as well.

4. People you can contact

While we have attempted to provide several useful resources in this toolkit, you may find that it would be helpful to have a conversation with one or more committee



members to talk through the particulars of your situation. If so, please contact one or more of the following members of the PSC, who have specifically volunteered to serve as resources on issues related to workload:

- Mary N. Bowman, Clinical Professor of Law, Sandra Day O'Connor College of Law at Arizona State University, mary.n.bowman@asu.edu
- Olympia Duhart, Associate Dean for Faculty & Student Development, Director of Legal Research & Writing, and Professor of Law, Nova Southeastern University Shepard Broad College of Law, olympia@nova.edu
- Suzanne Rowe, James L. and Ilene R. Hershner Professor, University of Oregon School of Law, srowe@uoregon.edu
- Melissa H. Weresh, Dwight D. Opperman Distinguished Professor of Law, Drake University Law School, melissa.weresh@drake.edu

If any LWI members who are not on the PSC would also like to serve as resources for other members dealing with workload issues, please contact Mary Bowman at mary.n.bowman@asu.edu to have your name included on future versions of this Toolkit.

