



## **From the editors....**

With this issue, *The Second Draft* begins its second decade as the newsletter of the Legal Writing Institute. Our colleague, Francine Sherman, is no longer co-editing *The Second Draft* because she is on academic leave to develop a juvenile justice advocacy clinic.

This issue includes reports from the Chair of the Board of Directors and the committees of the Institute, in addition to two feature articles and other items of interest to the Institute's membership. The issue does not include summaries of presentations at last July's Conference, as was originally planned, because a forthcoming issue of *Legal Writing*, the Institute's journal, will set forth conference proceedings.

The Spring 1997 issue of *The Second Draft* will present your views on the question: "Around what goals should we construct a legal research and writing curriculum for first-year students?" We invite you to submit essays of no more than 750 words on what you see as the central goals of the ideal first-year legal writing curriculum. Some possibilities: Do you see development of proficiency in analytical writing as a goal that transcends all others? Or, do you see development of related practice skills as equally important? Do you see introducing students to a wide range of legal writing forms as an important goal? Where does improving students' basic writing skills fit in? And what do you see as important goals for teaching legal research? How do your goals for teaching legal research relate to your goals for teaching legal writing?

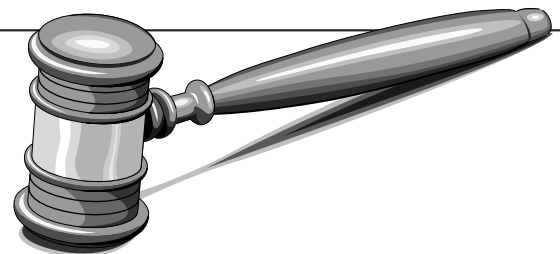
Please submit your essays in hard copy and on 3.5" diskette to either of us by February 15, 1997 (see address on the back of this newsletter). We will publish as many essays as the newsletter's budget permits. If you have an item you would like us to include in the News, Letters to the Editors, Achievements, or Publications section, please also submit it by February 15.

Joan Blum & Jane Kent Gionfriddo, Boston College Law School

## **Reports from The Legal Writing Institute**

### **Report of the Chair**

Steve Jamar



This has been an eventful year for the Legal Writing Institute. Perhaps the most important change has been in the leadership of the Institute. Although the founders of the organization who have led the Institute for the past 16 years have decided to pass the baton of leadership to the rest of us, I'm sure they will continue to contribute to the Institute and to our profession generally. And so I begin my first report as Chair of the Board of Directors with a note of thanks and appreciation for our colleagues who have done so much to contribute to our professional development.

Chris Rideout served as Chair of the Board of Directors for 10 years. During his tenure, the Institute founded its journal and newsletter, made the survey an ongoing project, and fostered the biennial conference as an exciting forum for exchange of ideas among legal writing professionals. Last summer, Chris decided to step down as Chair of the Board, although he continues to serve as the chair of the Journal's Editorial Board.

Anne Enquist has been the Institute's only secretary-treasurer. She has kept the minutes and managed the Institute's money. She has contributed her insight and good sense to the Board's decision-making. The work of a secretary-treasurer is critically important and we are in Anne's debt.

Laurel Oates has led the Institute in innumerable ways during the past sixteen years. Perhaps her most visible accomplishment has been her work on the biennial conferences. Although she has been assisted by conference committees, Laurel was the principal organizer of the conferences in Tacoma and Seattle, and provided invaluable guidance, support, and oversight for other conferences. Laurel's other contributions may be less visible, but they have been critical to the development of our discipline. Laurel has informed the Board that she will resign when the new Board takes office in January 1997. I'm sure we will continue to call on her for insight and advice.

The Institute's 1996 biennial conference in Seattle was a success (see the report from the program committee chair, Laurel Oates). The much delayed second volume of *Legal Writing, Journal of the Legal Writing Institute*, is being printed and will be distributed very soon. Changes in the Journal's governance and

editing and publishing process will insure regular, timely publication of high-quality issues (see the report from Lou Sirico and Diana Pratt). Financially, the Institute is in good shape for the foreseeable future (see the treasurer's report from Anne Enquist). Thus, we are in a position to support on-going projects like the Journal and to begin new initiatives.

This fall the Board held its first board meeting in cyberspace. Among the matters accomplished were the election of a new chair (me) to complete Chris Rideout's term (until January 1997), adoption of new bylaws, funding of two years of *The Second Draft*, adoption of a resolution to co-sponsor an award reception for those who did so much to help pass the ABA revised LRW standards, and miscellaneous ordinary board work.

The new bylaws will take effect in January. (You can read the bylaws at the Institute's temporary web site at <http://www.law.howard.edu/other/Institute.html>.) Changes include creation of a special directorship to be filled by a Seattle University School of Law member of the Institute, term limits for officers and directors, and an increase in the number of officers. Instead of the current two officers, Chair and Secretary-Treasurer, we will have four: President, President-elect, Treasurer, and Secretary. Each officer will be elected for two years. The President will serve only one two-year term at which time the President-elect, who will be completing a two year term in that office, will become President.

Balloting for the Institute's Board of Directors closed in November. The new board will take office in January, at which time new officers will be elected under the new bylaws.

One of my main aims as Chair (currently) and as President (if elected to that office for the next two years) will be to increase communication to Institute members about Institute actions, formalize the administrative and budgeting processes of the organization, begin several outreach and support initiatives (such as communicating more with non-LRW professionals, including practicing lawyers and other law professors, and increasing peer support for LRW scholarship), and increase member involvement in the various Institute activities.

This issue of *The Second Draft* reports on important national developments. As Richard Neumann describes, for the first time ABA accreditation standards require schools to offer what we teach. Much remains to be done, but much was accomplished. A third national LRW organization has been created: In addition to the AALS Section on Legal Writing, Research, and Reasoning and the Institute, LRW program directors created the Association of Legal Writing Directors (see the report from Jan Levine on ALWD).

This issue includes reports from the various Institute committees or descriptions of what the committees do. If you want to work on a committee or if you think of things you want to see your organization do, please let me know.

I can be reached at Prof. Steven D. Jamar, Director, LRW Program, Howard University School of Law, 2900 Van Ness Street NW, Washington, DC 20008; vox 202-806-8017; fax 202-806-8428; email <[sjamar@law.howard.edu](mailto:sjamar@law.howard.edu)>

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# Treasurer's Report as of October 7, 1996

Anne Enquist, Treasurer

Note: This report reflects final numbers from the 1996 Conference of the Institute. At the time the report was submitted, the Institute had not yet received the publishing and mailing bill for the second issue of the Institute's journal. Once that bill is submitted and paid and the budgets for The Second Draft and Jill Ramsfield's updated survey of legal writing programs have been submitted and approved, the Board intends to move a substantial portion of its liquid assets into longer term savings and investments.

Time Deposit Accounts	\$21,981.70
	22,528.22
	<u>13,095.40</u>
Time Deposit Total	\$57,605.32
Second Draft Account	\$529.94
Savings Account	20,950.95
Checking Account	59,227.57
Liquid Assets Total	\$80,708.46
<hr/> Total Assets	<hr/> \$138,313.78

## Institute Holds Seventh Conference

### Program Committee

Laurel Oates, Chair

Three hundred ten people from more than one hundred American and Canadian law schools

attended this summer's conference at Seattle University. The theme of the conference, the Institute's seventh, was "Learning from the Disciplines."

Featured speakers at this conference were Samuel S. Wineburg, an educational psychologist at the University of Washington, Ann Ruggles Gere, a professor of English and education at the University of Michigan, Peter Suber, a professor of philosophy at Earlham College, and the Honorable Rosalie Wahl. In addition, more than seventy-five members of the Institute spoke on a wide range of topics including curriculum design, effective teaching methods, development of scholarship, and the politics of legal writing. The conference proceedings are scheduled to be published in the Institute's journal in the early summer of 1997.

Despite the fact that the weather was typical Seattle weather, conference participants enjoyed a wide variety of special events including an opening reception featuring traditional Japanese drumming, the seventh Legal Writing Institute picnic, a talent show with real and "not so real" talent, and a dinner cruise on Puget Sound.

The next conference will be in June of 1998 at Emory University School of Law in Atlanta, Georgia.

## Journal of the Legal Writing Institute

Diana Pratt and Lou Sirico, Members,  
Editorial Board

Legal Writing: The Journal of the Legal Writing Institute now has a rotating editorship. Although the editorial board remains constant,

a different member of the board will assume leadership for each issue. Diana Pratt (Wayne) will edit the third issue of the journal, and Lou Sirico (Villanova) will edit the fourth.

The second issue of the Journal will be out soon. Authors and editors are now hard at work on the third issue, which will publish proceedings of the 1996 Conference of the Institute. This issue is scheduled to come out by early summer. More than thirty submissions for the proceedings issue were received; this demonstrates how far we have come in developing scholarship in our discipline. Although space constraints prevent publishing all the submissions, the quality and quantity of the pieces indicate that the Journal can provide a regular forum for legal writing faculty scholarship.

Although the fourth issue of the Journal will also include pieces derived from presentations at the Seattle conference, it will publish other works as well. If you wish to submit a manuscript for the fourth issue, please send it to Professor Louis Sirico, Villanova Law School, 299 North Spring Mill Road, Villanova PA 19805-1682. Lou Sirico's telephone number is (610) 519-7071.

## Committee Reports

### Election for LWI Board of Directors

Chris Wren

Every two years, following the Legal Writing Institute's biennial conference, the Institute has held an election to fill half the positions on the Board of Directors. This time twenty-one candidates were nominated. The following seven were elected:

Mary Beth Beazley	Ohio State
Steven D. Jamar	Howard
Steve Johansen	Lewis & Clark
Terri LeClercq	Texas
Katy Mercer	Case Western Reserve
Marilyn R. Walter	Brooklyn
Mark E. Wojcik	John Marshall

They join the continuing directors, whose terms expire in 1998:

Anne Enquist	Seattle
Jane Gionfriddo	Boston College
Joe Kimble	Thomas Cooley
Laurel Oates	Seattle (resigning in Jan. 1997)
Diana Pratt	Wayne State
Chris Rideout	Seattle
Helene Shapo	Northwestern
Lou Sirico	Villanova

The newly elected directors will serve transitional terms slightly shorter than the four-year terms of other board members, because of recent amendments to the Institute's bylaws. The terms of the newly elected directors will begin January 1, 1997 and end just before the Board convenes its meeting at the biennial conference in the summer of 2000. (Directors elected in 1998 will serve full four-year terms, beginning with the board meeting at the 1998 conference.)

Putting an election together requires much cooperation from many people. The Election Committee extends special thanks to two Institute members for volunteering their time to make this election run smoothly: Pamela Edwards (Hofstra) for preparing the ballot, and Brenda See (University of Alabama) for receiving the ballots and tallying the votes.

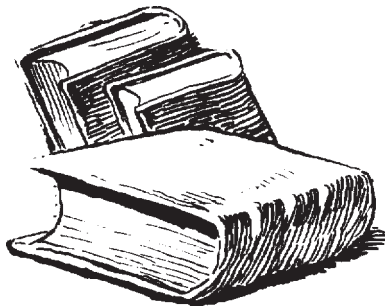
Because of recent changes to the bylaws, the Institute will hold its next board election in the spring of 1998 before the next Conference of

the Institute rather than after. Stay tuned to The Second Draft, which will carry news and announcements about that election.

## Mentoring Committee

Jennifer Zavatsky and Susan McClellan,  
Co-chairs

(No report for this issue of The Second Draft)



## Outreach Committee

Jane Gionfriddo & Steve Jamar, Co-chairs

During the July 1996 meeting, the Board of Directors voted to create the Outreach Committee, charged with publicizing the Legal Writing Institute and the discipline of legal reasoning, research, and writing to other law professors and members of the bench and bar, so that they have an opportunity to understand the depth and breadth of what legal writing professionals do. This committee is co-chaired by Steve Jamar and Jane Gionfriddo, and will probably coordinate efforts with its counterpart in the Association of Legal Writing Directors. The co-chairs invite your ideas on ways the committee can work towards its goals (and would welcome some members who have public relations experience). If you wish to become a member of this committee, please contact Jane Gionfriddo at <jane.gionfriddo@bc.edu> or 617-552-4358, or Steve Jamar at <sjamar@law.howard.edu> or 202-806-8017.

## Plagiarism Committee

Terri LeClercq, Chair

The members of the Institute's Plagiarism Committee reviewed 152 law school responses to their questionnaire. Their conclusion: what a mess, what an opening for law suits against different schools.

In response, they created a mocked-up pamphlet of a plagiarism policy and acknowledgment sheet, and sent both the pamphlet and position paper to each law school. Members hope a wide-spread use of the new policy will eliminate the disparities throughout the law schools. Schools can choose, of course, to make any changes necessary to fit their curriculum and honor code.

Please contact the chair of the committee, Terri LeClercq (Univ. of Texas), at (512) 471-0654 if your school did not receive the results of this study.

## Policies and Procedures Committee

Anne Enquist, Chair

The three member (Laurel Oates, Diana Pratt, and Anne Enquist) committee on Policies and Procedures for National Conferences began working shortly after the 1994 national conference at Chicago-Kent School of Law to establish written policies and procedures for national conferences that could be conveyed to law schools applying to host the Legal Writing Institute's National Conferences. The primary purpose for drafting written policies and procedures was to insure that host institutions understood the Institute's expectations for national conferences.

After incorporating suggestions from several members of the Board of Directors of the Institute, the committee submitted Policies and Procedures, which the Board voted to adopt. The Policies and Procedures address the following topics: Conference Site Selection, Budgets for National Conferences, Conference Program, Registration Fees, and Families of Conference Participants. The full text of the Policies and Procedures is available from Lori Lamb, the Institute's secretary, at Seattle University School of Law.

The 1996 National Conference at Seattle University School of Law was the first to use the newly adopted Policies and Procedures for its budgeting processes. In the spring of 1996, the Committee announced that the Board was accepting applications to host the 1998 National Conference and included the approved Policies and Procedures. The 1998 national conference at Emory will be the first Legal Writing Institute National Conference to use the Policies and Procedures from the site selection process all the way through to the final budget submitted to the Board of Directors.

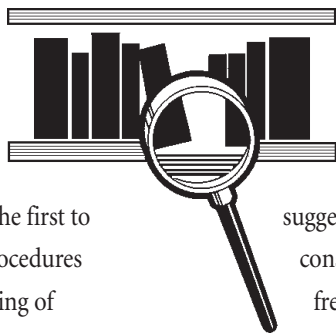
## Survey of the Legal Writing Institute

Jill J. Ramsfield

Data collection for the 1996 Legal Writing Institute Survey began in July with the distribution of the Survey at the Conference of the Institute. We received about 63 completed surveys at the convention. Since that time, another fourteen have come in. We sent hard copies of the survey to all remaining schools, requesting their completed surveys by November 11. In the meantime, the information we have received is being entered into our database at the Georgetown Research Institute,

which houses all data from the 1990, 1992, and 1994 surveys. As in the past, we will not only process this year's information and cross-index with this year's survey, but we will also compare this year's survey with past surveys to identify trends.

The text for the 1996 survey was revised in light of suggestions by Jan Levine and comments



from previous survey participants. We at GULC (a team that includes a social scientist) evaluated all

suggestions and comments by considering both the frequency and subject matter of previous participants'

questions; we also projected future needs based on past requests and trends revealed by previous surveys. We realize that it is nearly impossible to design a perfect survey when programs differ so much. With a few exceptions, participants have been generous in using their comments to accurately describe their programs. We have used these comments in responding to requests for program descriptions and information.

We receive about three requests per week for information from the survey. We ask that all requests be in writing, whether by e-mail, fax, or regular mail. Written requests allow us to respond accurately. Those requesting information should write to one of the following addresses:

Professor Jill J. Ramsfield, Georgetown University Law Center  
FAX: 202-662-9501  
E-MAIL: <ramsfiel@law.georgetown.edu>  
MAIL: 600 New Jersey Ave., NW  
Washington, D.C. 20001

## Feature Article

### ABA Standards and Legal Writing Programs

Richard K. Neumann, Jr.

On August 6, 1996, the ABA House of Delegates approved a recodification of the ABA Standards for the Approval of Law Schools. To become accredited, a law school must demonstrate that it satisfies the Standards. And schools that are already accredited must demonstrate every seven years that they continue to satisfy the Standards. The recodification contains some new provisions that directly benefit the field of legal writing.

#### What The New Standards Provide

Standard 302(a)(2) now requires that a law school "offer to all students... an educational program designed to provide its graduates with basic competence in legal analysis and reasoning, legal research, problem-solving, and oral and written communication." Similar language also appears in the new Preamble to the Standards. Previously, the Standards required only that a law school provide students with "at least one rigorous writing experience," which every law school claimed to satisfy simply by having a first-year writing program, regardless of its quality. The one-rigorous-writing-experience requirement remains and is now in 302(a)(3). But in the future a law school will violate the Standards if its writing program is not "designed to provide its graduates with basic competence."

Standard 405(d) now provides that "law schools employing full-time legal writing instructors or directors shall provide conditions sufficient to attract well-qualified legal writing instructors or directors." This does not affect salaries, which, under last year's antitrust consent

decree, the ABA cannot regulate except where salary disparities are caused by discrimination on the basis of race, sex, or another category prohibited by law. And 405(d) does not provide what clinicians get through 405(c), which is more specific and better. But it is a step in that direction.

An important part of an accreditation review is a comparison of the size of a law school's faculty with the size of its student body.

(People involved in accreditation refer to this as "the ratios.") Previously, only full-time tenure-track teachers were counted when computing a school's ratio. Schools got no credit for off-tenure-track legal writing teachers and clinicians, adjuncts, and administrators who teach part-time. Part of the new recodification is Interpretation 402-1, which provides that an off-tenure-track legal writing teacher or clinician is counted as the equivalent of 70% of a tenure-track teacher, and that an adjunct is counted as 20%. There is something of an insult in counting one full-time teacher as less than 100% of the value of another full-time teacher. But 70% is a lot more than 0%. And Interpretation 402-1 creates a subtle incentive that could benefit legal writing at some



schools that have accreditation problems because of inadequate ratios. For the first time, a school might be able to solve a ratio problem by adding teachers to the legal writing program.

#### How These Provisions Were Adopted

How did these provisions get into the Standards? That is a complicated story, and there is space here to tell only part of it.

The recodification went through several levels of review before arriving at the House of Delegates, which is the governing body of the ABA. The recodification was prepared by the Standards Review Committee of the ABA

Section of Legal Education and Admissions to the Bar. It was approved, with some amendments, in June 1996 by the Council, which is the governing body of the Section of Legal Education.

Afterward, it was studied by the ABA Board of Governors, which is something like an executive committee for the ABA as a whole. It was also scrutinized by the Antitrust Division of the Department of Justice pursuant to the consent decree of June 1995, in which the ABA agreed to reform some accreditation practices. (The recodification did not result from the consent decree. The ABA had begun work on it before the DOJ became interested in law school accreditation.)

The Communications Skills Committee of the ABA Section of Legal Education is the only body in the Section to which legal writing teachers have been appointed.

There are no legal writing teachers on the Council, on the Standards Review Committee, or — as far as I know — on any other committee in the Section. No legal writing teachers served on the Wahl Commission, which the ABA appointed a few years ago to study the process of accreditation generally. And legal writing teachers serve on very few site evaluation teams, which inspect schools for accreditation and re-accreditation purposes.

In 1995, the Communications Skills Committee made some recommendations, most of which eventually made their way into the new Standards. It recommended the new Standard 302(a)(2). And it made recommendations on employment status which were later condensed into the new 405(d). (We did not get everything we asked for in regard to status, but we have just begun to fight on this issue.)

The Communications Skills Committee sent long memoranda to the Wahl Commission and to the Standards Review Committee. Essentially briefs on behalf of the field of legal writing, these memoranda were drafted jointly by Ralph Brill (Chicago-Kent), Susan Brody (John Marshall), and me, with input from other members of the committee. Ralph, in fact, drafted the language that became 302(a)(2). Susan, by the way, is the current chair of the Communications Skills Committee; Jan Levine (Temple) is vice-chair. Last winter, Ralph and I each testified before the Standards Review Committee.



Late last spring, the Illinois State Bar instructed its delegation to the House of Delegates to press for a number of amendments to the Standards, including all of the recommendations made originally by the Communications Skills Committee. At its June meeting, the Council adopted Ralph's 302(a)(2) language but rejected the status recommendations.

In July, the Standards Review Committee held another hearing, and Ralph testified eloquently on the status issues, which the Illinois delegation was pressing at the same time through other avenues. Shortly afterward the leadership of the Section of Legal Education agreed to part of our status recommendations, and the result became 405(d). In the House of Delegates in August, Susan introduced 405(d) and argued eloquently in its favor, after which the House adopted it unanimously.

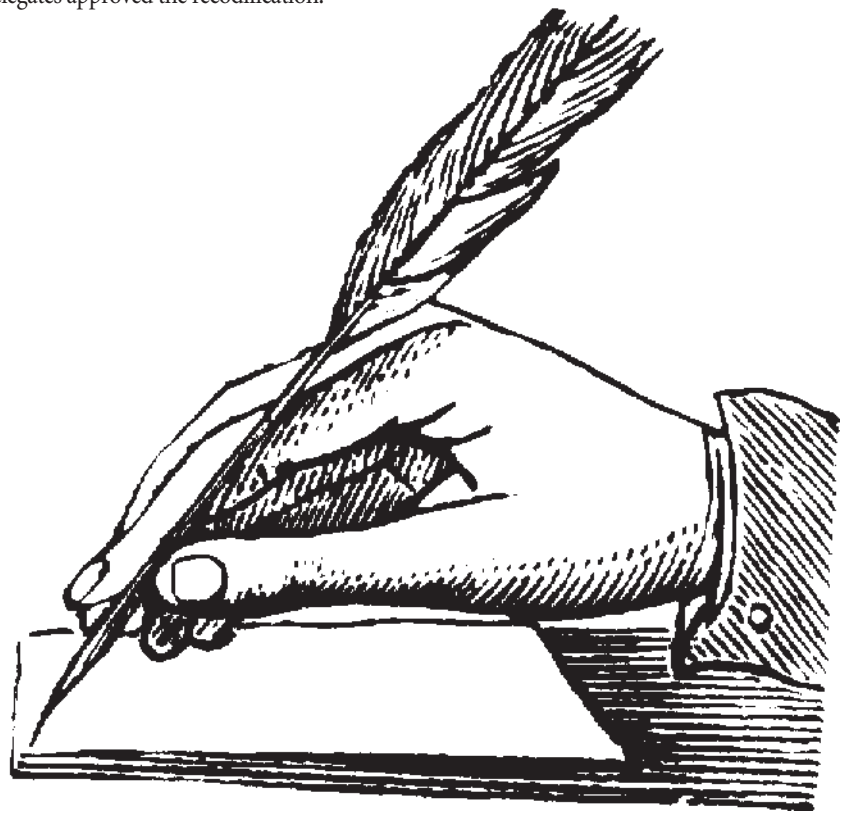
Crucial to the adoption of Standards 302(a)(2) and 405(d) were the efforts of Tom Leahy, an Illinois lawyer prominent in that state's bar, and of Gary Palm, a clinician who

is a member of the Council. Other clinicians also played a significant role, especially Roy Stuckey, and we had the support of the Clinical Legal Education Association (CLEA). In addition, a number of members of the Association of Legal Writing Directors (ALWD) lobbied their states' delegations to the House of Delegates.

On the other hand, the ratios provisions in Interpretation 402-1 did not result from anything legal writing people had done. Instead, a number of deans had complained that the old rules on ratios had disadvantaged their schools, and the Justice Department exerted some pressure on the question.

What became Interpretation 402-1 was literally imposed from above by the ABA Board of Governors and later ratified when the House of Delegates approved the recodification.

Aside from the content of the new Standards, things have now changed in two important ways. First, we received important help from clinicians, and they were grateful for whatever help we gave them. There will certainly be further cooperation in the future. Second, inside the ABA there is, for the first time, some respect for legal writing and the people who teach it. The Standards now treat legal writing as a legitimate academic field, which they did not do before. This does not mean that legal writing will be treated fairly by the ABA on all or even most occasions. But we have begun to be listened to.



# FROM THE DESK OF THE WRITING SPECIALIST

## Cultural Influences on Learning: Insights from International Students

Jessie Grearson, John Marshall



As a member of the legal writing community, I'm glad to see the increased attention that we are beginning to pay to our international students, and to the insights they prompt in our teaching. International students, who bring their many cultural frames of reference with them, can help us recall, among other things, that there are no stable universals about writing truths but rather multiple rhetorical traditions, all of which are culturally influenced.

When I taught at the University of Iowa's writing center, all students who came there were expected to write a response to a standard set of questions ("tell me about yourself, tell me about one of your hobbies, tell me about one of your talents") before we worked with them on other matters. One Taiwanese graduate student with whom

I worked (who wanted very much to work on his technical, science-related thesis) struggled to produce even a paragraph in response to each of the first two questions. His five-page breakthrough came with the "tell me about one of your talents" exercise. In response, Mr. Liu wrote a long and vivid fable.

Puzzled, I tried to connect the fable (about three musician monks) to the assignment. Not until the end of the writing did his point bloom in my mind; this was a story warning about the dangers of self-aggrandizement, indirectly explaining the virtues of humility, perspective and a sense of one's small place in the overall scheme of things. I've learned much from my students, but Mr. Liu was the first to illuminate for me the connection between cultural ways of being and their influence on students' thinking, writing and general approach to the world. It was not, he helped me realize, "natural" for all students to want to talk about themselves, to cheerfully divulge personal details and expound upon their own talents.

It's easy to forget that even values such as clarity, directness, and reader-friendly prose are not universal writing truths but very Western, perhaps even particularly American, writing values. As members of the legal writing community, it's even easier for us to forget this, because of the importance we give to controlling meaning, as any ambiguity may be seized upon to a client's disadvantage.

The presence of international students in our classrooms reminds us that what is appropriate, expected and familiar in one culture may seem strange — sometimes even insulting — in another. International students can remind us to explain not just what our conventions are, but why we have these conventions, and how they fit within the context of our American legal system. For some students, such explicit teaching will serve as a welcome reminder of goals they've been taught indirectly all along. For our international students, explaining and contextualizing such values and conventions and showing how these serve the interests of our legal writing community seems critical to the success of these students in law school.

More than 30 years ago, a linguist named Robert Kaplan<sup>1</sup> argued that logic and organization were culturally influenced. Though he was critiqued for oversimplifying, his observations led the way for more carefully qualified statements that do recognize the influence of culture on rhetorical patterns.

In some cultures, the clarity and "point-first" constructions we value might actually be considered insulting; a "point-first" organizational tool like IRAC might run completely counter to an organizing method that an international student brings from home. For example, Chinese graduate student Fan Shen writes of the 2,000-year-old Chinese bush clearing pattern in which the writer "clears the surrounding bushes before attacking the real target," stating the "conditions" of a composition "before touching one's main thesis." Shen

also writes convincingly of the writers' block that resulted when these two systems of organization and logic clashed.

Teaching as though the goal of point-first writing or clarity is a "natural" one for all writers in all writings — and assuming that merely by showing students lots of good examples they'll "get it" — is the teaching equivalent of an English speaker raising his or her voice to someone who doesn't speak English, expecting volume to compensate for careful translation.

As researcher John Hinds points out, we English writers and speakers are particularly "writer-responsible" — meaning that we place a high value on clarity, and on spelling things out for the reader (as point-first organization attempts to do). But reader responsibility varies from culture to culture, with differing expectations about the reader's "degree of involvement." For example, Hinds contrasts our American, writer-responsible culture, with a Japanese reader-responsible culture that shifts the responsibility for communication from the writer/speaker to the reader/listener.

I am not, of course, suggesting that we abandon values like clarity or point-first organizational tools like IRAC. But I am convinced that we must consider how our students' previous writing backgrounds influence their ideas about writing if we are to help them adapt to the way we do things in the legal writing community.

Considering how we can best introduce international students to our way of doing things, how we can encourage them to make transitions from one writing situation to another, provides insights that extend to all new students of legal writing. For example, the "culture shock" evident in new legal writers' work serves as a vivid reminder that legal organization and legal writing conventions themselves are a kind of "second language" for first-year students. But the resulting errors should be less a source of



shame for them and more of a source of understanding for us. If used as windows into students' previous writing experiences, these errors provide valuable information about where different students are "coming from," and how—though perhaps in ways more subtle than for our international students—other academic cultures may affect their transitions to legal writing.

For example, a frequent comment on papers of new legal writers is "don't write a college essay"—a suggestion that tends to focus on organization and that can inadvertently seem to suggest that the essay is an inferior way of writing rather than an inappropriate one for the circumstances. Like the Chinese bush-clearing pattern, the point of a literary essay is often revealed at its end, or in the journey of the writing itself. This mode of writing (however foreign it may seem to the legal writer who is expected to have conquered all ideas before they appear before the reader) has a long and distinguished history, and is appropriate within the "culture" of a liberal arts setting. After all, one important goal of a liberal arts education is to deepen students' understanding of the world and who they are in it, to broaden students' minds and to introduce them to different fields and modes of inquiry.

This goal, of course, stands in stark contrast to that of a focused professional training, with its necessarily more narrow emphasis. To help our students successfully make the transition to this new legal way of writing, thinking, and organization, it helps to know something about other organizational influences. We must acknowledge that there are other ways of writing and thinking so that we remain respectful of differences while teaching our particular way of doing things.

These transitional moments are ideal teaching opportunities because students can glimpse more clearly what they have been doing—and why—as well as what we are asking of them—and why. If we encourage this broader understanding, we can also encourage students to see themselves as the professional writers they must become, carefully selecting from a repertoire of writing strategies accumulated throughout their educations.

However, some problems experienced by both our American and international students may look alike but in fact have very different root causes. Many beginning legal writers struggle to produce accurate precedent illustrations that clarify a general legal principle for the reader. New legal writers often violate reader expectations by forgetting to move from a general statement of a rule to a more particular case-based example. But, as we have all begun to recognize, this common problem of troubled or underdeveloped precedent discussions for a new (and temporarily confused) American legal writer may have a very different root cause from that of an international student to whom common law is an unfamiliar—or not even particularly attractive—idea.

For example, I worked with a Czechoslovakian lawyer on an objective memorandum, inviting/reminding/requiring him to provide me with a precedent example after his flawless statement of the rule (in accordance with his teacher's wishes). Finally he explained to me that he simply could not bring himself to do so because such a step seemed silly to him. "The rule is the rule; I am just going to apply it to the facts, like this," he said. Then he told me how things worked in his code country. Eventually he did write precedent illustrations for his teacher, but he felt better telling me he didn't "buy it" as a concept. I thought of this student during Dr. Wineburg's penny drawing exercise at this summer's Legal Writing Institute Conference that reminded us "frequent exposure to that which has no meaning for us fails to make a lasting impression."

As writing teachers, we should respect the reasons behind the problem in both the case of the international student and the American student, but we would need to handle them differently and we would have different expectations about the length of time each student would require to make the transition. We could expect an American student, surrounded by a culture that is very writer-responsible and western-linear-logical to adapt much more quickly to the organizational tool of IRAC because American students have precedents or cultural cues for that sort of deductive argument (from the five paragraph theme taught in grammar and high school to the

pyramid principle taught in business settings). In contrast, a person whose life training has been in a system of "indirect logic" is likely to take longer and to need the rationale underlying our methods of organizing explained quite clearly, and in terms of this new rhetorical situation's audience, purpose and context.

In each case we have a challenging opportunity—to notice and describe tendencies while ready, always, to qualify our observations and avoid stereotyping ("all English majors... all Asian students"). That which is culturally influenced is always interacting with the uniquely human and personal, and there are no clear dividing lines between the two. Such careful thinking allows us the opportunity to learn from our students and to recall the many ways of writing and thinking that exist in the worlds beyond those of our own writing community.

Carefully articulating not just WHAT we do, but also WHY we do what we do—allows us an on-going reality-check of our community's conventions. After all, conventions are not set in stone, but change over time and in response to a community's needs, as evidenced by the legal writing community's relatively recent response to the Plain English Movement. Providing careful explanations of our legal writing conventions to all newcomers helps ensure that these conventions continue to serve an active communicative function and that they do not become empty traditions.

<sup>1</sup>For more information about cultural influences on logic and organization as discussed in this article, see the following articles: Robert B. Kaplan's "Cultural Thought Patterns revisited," and John Hinds' "Reader versus Writer Responsibility: A New Typology," in *Writing Across Languages: Analysis of L2 Texts*, edited by Ulla Connor and Robert Kaplan, as well as Fan Shen's "The Classroom and the Wider Culture: Identifying as a Key to Learning English Composition" in *40 College Composition & Comm.* 459 (1989).

# NEWS

## Association of Legal Writing Directors (ALWD)

The ALWD membership met in Seattle, Washington on July 17, 1996. The general meeting was followed by a meeting of the officers and board. The board voted to meet again at the AALS midyear meeting in January 1997 in Washington, D.C. Minutes of the board meeting are available on request from Katy Mercer, Secretary-Treasurer (Case Western Reserve).

Jan Levine's full report on ALWD and the committee structure and tasks was posted on DIRCON95 and LEGWRI-L, and Jan Levine can supply copies to those LRW teachers who haven't seen the report. In addition, he can send you a copy of "The Politics of Legal Writing: Proceedings of a Conference for Legal Writing Program Directors" which reports on the 1995 conference held in San Diego.

ALWD's officers and board are as follows: Jan M. Levine, President; Katie McManus, Vice-President; Katy Mercer (Secretary/Treasurer); Mary Beth Beazley, Ralph Brill, Susan Brody, Linda Edwards, Steve Jamar, Richard Neumann, Nancy Schultz, Martha Siegel, and Ruth Vance, board members.

ALWD has the following committees:

1. Executive Committee. Steve Jamar, Jan Levine, Katie McManus, Katy Mercer, and Martha Siegel, Members.
2. Membership Committee, Katy Mercer, Chair.
3. Technology and Website Committee, Ralph Brill, Chair. This committee will create and site an ALWD homepage.
4. By-Laws Committee, Katie McManus, Chair.
5. Strategy Committee, Richard Neumann, Chair. This committee will address issues

involving the status of legal writing and legal writing teachers within the academy and collaboration between teachers of legal writing and clinical teachers.

6. Survey Committee, Lou Sirico, Chair. This committee will work with West Publishing Co. and the Legal Writing Institute to put out a very detailed survey that addresses status, salary, workload, and related items of interest to all LRW teachers.

7. Conference Planning Committee, Maureen Straub Kordesh and Katie McManus, Co-chairs.

8. Incorporation and Finance Committee.

9. Outreach Committee, Katie McManus, Chair. This committee will work to get more information about LRW into the hands of academics, the bench and bar, our colleagues in college composition, and the media.

10. Consultant-Evaluator Committee, Susan Brody, Chair. This committee is likely to provide assistance to schools and LRW faculty undergoing reevaluation of their programs, often in conjunction with the ABA reaccreditation process.

11. Scholarship Committee, Linda Edwards, Chair. This committee will explore ways to promote the publication of LRW scholarship in mainstream law journals, has opened a dialog with librarians about cataloging and classifying LRW-related scholarship, and is sharing ideas about how LRW teachers can seek and obtain the support needed to produce quality scholarship.

12. Citation Committee, Davalene Cooper, Chair. This committee is charged with getting LRW teachers formally involved in the seven-year cycle of the Bluebook's review and revision process, and with suggesting changes (such as the signal changes recently attracting attention on various internet discussion lists).

For information about ALWD, contact Jan M. Levine, Associate Professor and Director, Legal Research & Writing Program, Temple University School of Law, 1719 N. Broad St. Philadelphia, PA 19122. Tel: (215) 204-8890. Email: <levine@thunder.ocis.temple.edu>

## Reception at January AALS meeting in Washington, D.C.

"Good Things Happen When We Collaborate: New ABA Standards."

This summer landmark changes were made to the American Bar Association Law School Accreditation Standards. These reforms were the result of the collaboration of clinical law teachers, legal writing teachers, and members of the practicing bar. Key among those responsible for the changes were Attorney Thomas Leahy, a member of the Illinois Bar who has long been involved in the ABA; clinical law professors Gary Palm of the University of Chicago Law School and Roy Stuckey of the University of South Carolina Law School. The three legal writing professors involved in these efforts were Ralph Brill of Chicago Kent College of Law, Dean Susan Brody of John Marshall Law School, and Professor Richard Neumann of Hofstra University Law School. The new ABA standards reflect the vision and the persistence of these dedicated professionals and herald a new era for legal writing and research. Richard Neumann's report in this Issue describes the standards and the process through which they were adopted.

Although much work remains to be done to implement the new standards in collaboration with our friends and allies among our clinical colleagues and the members of the organized bar, we all have occasion to celebrate. The Association of Legal Writing Directors and the Legal Writing Institute have jointly planned a cocktail reception to honor Gary Palm, Roy Stuckey, and Tom Leahy for their efforts. Ralph Brill, Susan Brody, and Richard Neumann will present our friends with tokens of our appreciation. The person who may be the most responsible for the emergence of legal writing as a professional field in the academy will be our keynote speaker, Professor Emeritus Marjorie Rombauer of the University of Washington School of Law.

The reception will take place at the Doubletree Hotel at 1515 Rhode Island Ave., N.W., in Washington, D.C. on January 5, 1997, from 4:00 p.m. to 6:00 p.m. The Doubletree Hotel is on Rhode Island Avenue between 15th and 16th, N.W. For those of

you who are familiar with D.C., the hotel is just off of Scott Circle, a short cab ride from the AALS convention hotels.

The admission for the reception is \$15.00. Admission includes one drink and a delightful hors d'oeuvres buffet. Additional drinks will be available for purchase. Admission to the reception is by reservation only. Please make your reservation by sending a check for fifteen dollars to Professor Amy Sloan, Director of Legal Research and Writing, George Washington University Law School, 2000 "H" Street N.W., Washington D.C. 20052 (202-994-1005 or <asloan@main.nlc.gwu.edu>).

N.B.: All CHECKS should be MADE OUT to Professor Amy Sloan. All reservations must be RECEIVED no later than DECEMBER 30, 1996.

(If you have any questions after reading this invitation, please address them to Katie McManus at mcmanusk@vms.csd.mu.edu or 414-288-7094.)

### Atlantic Regional Conference

Temple is going to host the Spring 1997 Regional LRW Conference for Pennsylvania, New Jersey, Delaware, and Maryland/DC. If you are interested in receiving information about the conference please contact Jan M. Levine, Associate Professor and Director, Legal Research & Writing Program, Temple University School of Law, 1719 N. Broad St., Philadelphia, PA 19122.

Tel: (215) 204-8890. Email: <levine@thunder.ocis.temple.edu>

### ESL-LAW Discussion List

The purpose of this list is to provide law teachers who teach international students with a forum for exchange of experiences, information, ideas, techniques, and assignments. For information about the discussion list or to learn how to subscribe, contact Molly O'Brien, Honorable Abraham L. Freedman Fellow and Lecturer in Law, Temple University School of Law.

# Achievements

## Tenure and Promotion

Steve Jamar received tenure and was promoted to full professor. His biography is included in the 1997 volume of Who's Who in America and in the 1996 volume of Who's Who in the World. He still uses Apple Macintosh computers.

## Tenure-Track LRW Faculty Hired at Chapman

The new Chapman University School of Law in Orange County, California has made a serious commitment to the teaching of legal research and writing by hiring three experienced professionals for tenure-track writing positions.

## New LRW&A Program at Detroit

The new and improved Legal Research, Writing & Advocacy Program at Michigan State University's Detroit College of Law is now successfully up and running.

The old program was a two semester pass/fail course taught by 3rd year TA's. The course had a major legal history component. The new program is a two semester graded course, worth two credits each semester, taught by full time instructors. The new program eliminates the legal history component and includes a major appellate oral advocacy component in the spring. The new instructors are Bill Fleener, Maureen Milliron, Cathy McClure and Peggy Blotner.

## Senior Drafting Seminar of the National Conference of State Legislatures

For the fourth time in six years, the Legal Drafting faculty of the University of Florida College of Law conducted the annual Senior Drafting Seminar of the National Conference of State Legislatures. The three day program, which the faculty spent months putting together, drew sixty professional legislative drafters from thirty states and territories,

including Alaska, Hawaii, American Samoa and the Virgin Islands.

After a welcoming address by Anne Rutledge, Director of the Legal Drafting Program, presentations were made by law professors from Florida, Columbia, and Duke on topics of interest to the professional drafters in attendance. Topics included a critique of the various approaches taken by state legislatures to the problem of property "taking," a hot issue in many states during these last few years; a provocative defense of textualism by a former clerk to Judge Bork and Justice Scalia; and a dramatic and instructive lecture on the theory of reader expectation and its impact on legislative drafting. Other presentations focused on the use of computers in the legislative drafting office, the training of newly hired drafters, and stress management in the drafting office.

The Legal Drafting faculty—Anne Rutledge, Lynn McGilvray-Saltzman, Margaret McLaughlin, and Joseph Jackson—conducted workshops following each of the presentations. From all accounts the conference was a resounding success.

# Publications

Mary Garvey Algero (Loyola New Orleans), *Ebb and Flow of the Tide: A Viable Doctrine for Determining Admiralty Jurisdiction or a Relic of the Past?* (forthcoming 27 SETON HALL L. REV., November 1996).

Steven D. Jamar (Howard), *Accommodating Religion at Work: A Principled Approach to Title VII*, N.Y.L. SCH. L. REV. 719 (1996).

Steven S. Locke (Suffolk), *The Equal Opportunity Harasser as a Paradigm for Recognizing Sexual Harassment of Homosexuals Under Title VII*, 27 RUTGERS L.J. 383 (Winter 1996).

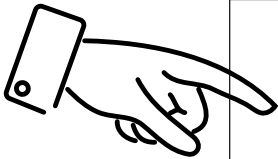
Doug Miller (South Texas), *Off Duty, Off the Wall, But Not Off the Hook: Section 1983 Liability for the Private Misconduct of Public Officials* (forthcoming 30 AKRON L. REV., December 1996).

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