

AALS SECTION ON LEGAL WRITING, REASONING, AND RESEARCH

The Association of American Law Schools
Advancing Excellence in Legal Education

From the Chair

KATE BREM
University of Houston
Law Center



Dear colleagues,

As I reflect on the year, I'm especially thankful to realize that even after more than a few years on the job, I still have much to learn. In addition to working with our exceptional section, I've had the pleasure of working with two legal research and writing faculty members who are new to the academy. My task was to share my knowledge of teaching with them. But what began as a one-way relationship between old faculty and new has morphed into a two-way mentorship. With a combined 30 years practice experience between them, these two professors have shared more with me about what our students know - and need to know - upon graduation than I could ever share with them about the inner workings of the 1L mind. This exchange of ideas has inspired me to consider my curriculum with fresh eyes. Now more than ever, I realize that those of us who teach legal research and writing must remain engaged with those in practice so that we can hone our learning objectives and teaching methods to match the needs of an ever-changing legal landscape.

(continued next page)

TABLE OF CONTENTS

Executive Committee
Nominations
p.4

LWI One-Day Workshops
p.5-7

Section Award Winner
p.8

Diversity Committee Update
p.9

Outreach Committee Update
p.10

Blackwell Award Reception
p. 11

Section Leadership and
Committees
p. 12-13

LWRR Micro-Essays
p. 14-20

While today's young lawyers are still expected to research legal issues, analyze those issues, and communicate their legal analysis, they are expected to do so ever more quickly and efficiently, using new technology that is changing by the day. And all too often the demands of practice threaten a young lawyer's ability to maintain a healthy mindset and any semblance of work-life balance. This requires that we in the academy refocus our curricula to include instruction that emphasizes improved research skills, effective but efficient legal analysis, speedy communication of that analysis, and methods to manage the stress that accompanies the daily grind.

I invite you to join us in Washington, D.C. this January as we discuss at least a few of these issues. In addition, we will feature the work of four newer scholars; receive an update on the work many in our community have been engaged in for years to bring security of employment to those teaching legal writing; celebrate the accomplishments of Dean Sue Liemer, winner of our 2024 Section Award, for her continued outstanding contributions to the discipline; and engage with one another at several networking opportunities interspersed throughout the conference. Here is a brief schedule of section events. For more information, click [here](#).



The poster features the AALS logo (an open book) in the top left corner. The main title is "AALS 2024 ANNUAL MEETING SECTION ON LEGAL WRITING, REASONING AND RESEARCH". A central photograph shows Sue Liemer, the 2024 Section Award Winner, smiling and holding a bouquet of pink lilies. The poster is divided into several event boxes for Wednesday, Thursday, and Friday, with a celebratory announcement at the bottom.

AALS

**AALS 2024 ANNUAL MEETING
SECTION ON LEGAL WRITING,
REASONING AND RESEARCH**

**WEDNESDAY
JAN 3**

Section Dine Arounds
Sponsored by the
LWRR Outreach Committee
6 - 8pm

**THURSDAY
JAN 4**

Section Meeting
Celebration of Sue Liemer
12 - 1pm

Rhetoric of Disagreement:
Toward a Civil Zealous
Advocacy
3 - 4:30pm

Sue Liemer
2024 Section Award Winner

**ABA UPDATE
JAN 4**
at the Section Meeting
12 - 1 pm

**FRIDAY
JAN 5**

The AI Era: Leveraging Large
Language Models to
Improve the Lawyer's Craft
8 - 9:40am

Learning with Our Students:
Adjusting to Our
Developing Understanding
of the NextGen Bar Exam
10 - 11:40am

Works-In-Progress
12 - 1:40pm

**CELEBRATE KRIS TISCIONE
BLACKWELL AWARD WINNER**
Thursday, Jan 4 | 8 - 10 pm

(continued next page)

Whether or not you are able to join us in Washington, D.C., I invite you to voice your comments about the pending ABA Council proposal [here](#). The comment period will close 45 days after it opens, which we expect will be sometime this week.

ALWD and LWI have long argued that there is no principled reason to treat faculty differently based on the subjects that they teach, and the ABA's proposal takes exactly this approach. If adopted, the proposal will eliminate Standard 405(d), which calls out lesser security of employment for "legal writing teachers," and replace it with a standard that provides instead that "A law school shall afford to all full-time faculty members the opportunity for tenure or a form of security of position reasonably similar to tenure and reasonably similar non-compensatory perquisites."

For more information about the proposal, read it [here](#), and [register to attend a virtual One-Day Workshop](#) on Friday, December 1, 2023, sponsored by LWI's Professional Status Advice & Support Committee. Alternatively, you can contact Mary Bowman or Bob Brain directly, who have spearheaded these efforts.

It has been a pleasure to serve as your section chair this year. I thank all our committee members for their dedicated service. And I wish you all a joyous holiday season and a healthy and prosperous 2024!

Warmest regards,
Kate



2024 Annual
Meeting

Defending Democracy

January 3 - 6 | Washington, DC | #AALS2024

Executive Committee Nominations



Chair

Iva Ferrell

Widener University
Delaware Law School



Chair Elect

Rachel Stabler

Arizona State University
Sandra Day O'Connor
College of Law



Past Chair

Kate Brem

University of Houston
Law Center

Proposed Executive Committee Slate

Secretary: Abigail Patthoff (Chapman)

Colin Black (Suffolk)

Erin Donelon (Tulane)

Jazzirelle Hill (Loyola)

Sylvia Lett (U. Arizona)

Maria Termini (Brooklyn)

LWI One-Day Workshops

December 2023

Register [here](#).

Arizona State University Sandra Day O'Connor College of Law

Thursday, December 1-virtual (MST)

Teaching Social Justice and Legal Change in Legal Writing

While legal writing classes often teach students to interpret and apply existing law, we're interested in conversations about how legal writing faculty engage students with questions of making the law better - more fair, more just. Ideas include but are not limited to activities within traditional legal writing classes; development of advanced courses; collaboration with public interest organizations, pro bono programs, or clinics; incorporating critical perspectives; and any other experiences or ideas you have for engaging students in working toward a better future.

Nova Southeastern University, Shepard Broad College of Law

Friday, December 2-hybrid (Ft. Lauderdale, FL-EST)

Choose Your Own Adventure: Recharging and Recentering in the LRW Classroom

The COVID-19 pandemic was an unprecedented time in legal education, forcing legal educators to grapple with a sustained sense of uncertainty while facing a multitude of challenges. As a direct result of these challenges, legal educators developed innovative strategies for becoming better teachers who in turn made their students better learners. We welcome proposals on a variety of topics—ranging from student and faculty well-being to identity formation and universal design—that relate to the overall theme of recharging and recentering in the LRW Classroom. To foster collaboration and inclusion, our program will offer non-presenter participants the option of attending virtually or in person.

LWI One-Day Workshops

December 2023

Register [here](#).

Charleston School of Law

Friday, December 9 - in-person (Charleston, SC)

Time to Shine: Legal Skills and the NextGen Bar Exam

The NextGen bar exam will have far-reaching effects on law students and law schools in nearly every jurisdiction in the United States. Its reduced doctrinal coverage, expanded skills coverage, and revised format distinguish the exam from all its predecessors. The NextGen bar exam's unprecedented emphasis on "Foundational Skills and Associated Lawyering Tasks" puts the spotlight on skills instruction in legal education. While many of the details surrounding the NextGen Bar exam remain uncertain, one detail looms large: with a July 2026 target administration date, the Fall 2023 incoming class of nearly every law school in the country will sit for this exam. This timeline has law schools taking a hard look at curricula to determine what adjustments should be made to best prepare their students. Some schools will tweak course requirements and assessment practices while others will overhaul the entire curriculum. All are asking questions: How can we make sure our students are adequately prepared for this exam? Where are we already covering these foundational skills? How do we assess these skills? How can we incorporate these skills throughout all courses? Skills instructors are in a unique position to use our expertise and experience to support curricular reform and to engage doctrinal colleagues in planning and implementing instruction designed to give students the skills needed for success not only on the new bar exam, but in practice as well. Join us as we discuss the critical role that research librarians, legal writing professors, academic success instructors, and other skills faculty members will play in preparing for the new exam. It's time to shine.

Case Western Reserve University School of Law

Friday, December 9 - virtual (EST)

Preparing Students for the Modern Practice of Law

The practice of law is constantly evolving. From technology like e-discovery, electronic due diligence, and artificial intelligence tools to modes of communicating, it's safe to say that lawyering today does not look the way it did when many legal writing professors were in practice. How are you preparing students for practicing law today? If you are currently practicing or have recently practiced, what tips can you share with others? If you are a veteran professor, how have you adapted your curriculum to reflect changes in technology and communication? Should the predictive memo still be a mainstay of the 1L curriculum, or should it give way to other types of writing students are more likely to come across in practice? All ideas—big and small—are welcome! We encourage presenters to make their presentations interactive or to save time at the end for questions and brainstorming ideas.

LWI One-Day Workshops

December 2023

Register [here](#).

University of Florida Levin College of Law

Saturday, December 10 - in-person & virtual
(Gainesville, FL)

Know Your Audience: Identifying Law Students' Educational Needs and Developing Inclusive and Effective Teaching Strategies to Meet Them

In legal writing and drafting courses, we often emphasize that students should know their audience and draft accordingly. It is time for professors to practice what they preach! This workshop will focus on discussing techniques and strategies that help professors identify and address the needs of the diverse student populations that are currently attending law schools. We hope to share research and best practices for addressing the following needs (not an exhaustive list): 1. Different learning styles 2. Learning differences (and the accommodations that can come with them) 3. Non-traditional law students (international students, first-generation students, etc.) 4. Physical and emotional impairments (visual impairment, hearing impairment, etc.).

Seattle University School of Law

Saturday, December 10 - virtual (PST)

Teaching Values in the Legal Writing Classroom

Many legal writing programs teach values as part of their curriculum. These values may include professionalism, cultural competence, self-reflection, anti-racism, the rule of law, or others. We invite proposals that explore assignments, exercises, or other best practices for teaching values in the legal writing classroom.

Fordham Law School

Friday, December 16 - in-person (New York, NY)

Advancing Simulation-Based Pedagogy

Simulations are a vital piece of the experiential-learning triad, but they often go undiscussed in conversations about law school pedagogy. For decades, legal writing classes have been using simulations to teach lawyering skills. Our program hopes to highlight innovative and effective ways to use simulation-based learning to teach a broad range of skills - including research, writing, drafting, interviewing, negotiation, and counseling. We also welcome ideas about how to create simulations that introduce new skills and feedback methodologies, foster professional identity formation, and advance discussions about bias, cross-cultural competency, and racism (ABA Standard 303).

2024

LWRR Section Award

SUE LIEMER

The 2024 LWRR Section Award winner is Sue Leimer, the Associate Dean for Academic Affairs and Professor of Law at Elon University School of Law. Sue has been teaching legal writing for more than three decades. During her impressive career, she has developed and inspired students at four law schools.

Sue began teaching legal writing as the program director at the Western New England College School of Law in 1990. After five years there, she directed the legal writing program at the University of Mississippi and, in 2000, joined the faculty at Southern Illinois University College of Law. In 2017, Sue moved to Elon University School of Law as the director of their first-year legal writing program and, since 2021, has served as Elon's Associate Dean for Academic Affairs.

Sue is widely cited by other legal writing scholars as the author of landmark articles and texts in the field. Notably, she has contributed to two editions of the ABA Sourcebook on Legal Writing. Many of her scholarly works highlight issues related to status and women in legal writing. In addition to founding and editing the Legal Writing Professors' Blog, Sue has also shared her expertise as an editor and peer reviewer for J. ALWD and as an editor for the Journal of the Legal Writing Institute. She has also generously provided her insights as a scholar, teacher, and leader by presenting across the country at conferences, schools, and other organizations.

Sue's glowing nomination letter said it best: "As a national leader, she has few peers and no superiors." Sue's many contributions to the national legal writing community include serving as the President of ALWD for two years, serving as the ALWD Corporate Secretary for nine years, and serving on the LWI board for four years. Sue has also served on three ABA accreditation teams, chaired a dozen committees for ALWD and LWI, and been involved with several AALS Sections, such as the Section on Legal Writing, Reasoning and Research; the Section on Women in Legal Education; and the Section on Teaching Methods.

Much of Sue's incredibly effective leadership has been quiet and behind the scenes. Yet, it has been truly transformative for the field. Through her scholarship and leadership, Sue has lobbied the ABA for heightened status and job security for legal writing teachers. Sue has ensured that the voices of the legal writing community are heard. Moreover, Sue has offered her unfailing support and mentorship of new professors and directors time and time again. In fact, many of her articles and presentations have focused on the professional development of her colleagues across the nation.

Sue is a tactful and savvy administrator, a creative teacher, and a generous colleague. We are thrilled to recognize her contributions to the field of legal writing with this award!

congratulations

Diversity Committee Update



This year the Diversity Committee, co-chaired by Alissa Gomez and Jazzirelle Hill, has continued strategizing on implementing measures for expanding the recruitment of and retention of diverse candidates to become LRW professors and to promote the inclusion of diverse LRW faculty in the profession. As a continuation of its work in prior years, in August the Committee supported outreach to prospective faculty members from underrepresented groups in an online Q&A session with legal writing professors at different stages in their careers sharing their experiences regarding the hiring process both as applicants and from serving on hiring committees. The Committee is also working on reviving the mentorship program and expanding its reach to law students who may be interested in pursuing a career in academia. Additionally, the committee is exploring creative strategies to help advance the scholarship of diverse legal writing faculty and scholarship focused on diversity and equity issues, such as writing groups, coordinating peer-collaborations, workshop trainings, and calls for papers.

The committee encourages attendance at diversity, equity, and inclusion programming at the 2024 AALS Annual Meeting in January. If you have any ideas or thoughts to share, we welcome you to contact us at argomez3@central.uh.edu and jazzirelle.hill@lsu.edu.

Outreach Committee Update

Hello, friends!

This year, the Outreach Committee has continued our traditional programming while juggling the very active 2022-23 and 2023-24 hiring markets that our legal writing community seems to be heavily involved in one way or another! This means that we're spreading out some programming over fall and spring that usually all happens only in the fall.

Again this year, the Outreach Committee partnered with the section's Diversity Committee to offer a Q & A session for those who indicated on their FAR form that they were interested in joining the academy to teach Legal Writing, Research, and Reasoning. Jazzirelle Hill, Joshua Jones, Tracy Norton, Hilary Reed, and Suzanne Rowe shared a variety of perspectives from their experiences on appointments committees, in new professor searches, and in lateral searches. They also gave an overview of the models of legal writing programs and positions, including the differences candidates might encounter between interviewing for a traditional casebook faculty position and a "purely" legal writing or legal skills position. We hope to see at conferences next year those who attended the FAR panel as prospective professors!

The Outreach Committee will once again host a "dine around" event during the 2024 AALS Annual Meeting of Law Schools in Washington DC. Members will have the opportunity to sign up for the "dine around" and join old and new friends at restaurants that are walkable from the Marquis and Westin hotels. LWRR Section members will find information about that and the section's other activities on our popular forthcoming AALS LWRR Dance Card. Watch the LWRR Section's discussion list through AALS for the Dance Card in December.

Looking forward to the spring, the Outreach Committee's plans include our annual Zoom mixer, a great opportunity to connect with one another after the holidays but before the semester gets too busy. The Committee is also always open to new ideas for ways we can bring everyone together and support one another.

Join the LWRR Outreach Committee for self-pay dine arounds on January 3, 2024. Use the QR Code on the right to sign up or click [here](#).



LWI AND ALWD CONGRATULATE

KRISTEN K. TISCIONE

Winner of the 2024 Thomas F. Blackwell Memorial Award
for Outstanding Achievement in the Field of Legal Writing



Kris Tiscione
Georgetown University
Law Center

Blackwell Award Reception

Date:

Thursday, January 4, 2024

Time:

8:00-10:00 p.m.

Location:

Marriott Marquis
Washington, D.C. (George
Washington University room)

Section Leadership

Officers



Chair

Kate Brem
University of Houston Law Center
kbrem@central.uh.edu

Chair-Elect

Iva Ferrell
Widener University
Delaware Law School
ijferrell@widener.edu



Secretary

Rachel Stabler
Arizona State University
Sandra Day O'Connor College of Law
rachel.stabler@asu.edu



Immediate Past Chair

Lori Johnson
University of Nevada, Las Vegas
William S. Boyd School of Law
lori.johnson@unlv.edu



Executive Committee (At-Large)

Abigail Patthoff
Chapman University
Dale E. Fowler School of Law
patthoff@chapman.edu



DeShayla Strachan
Mitchell Hamline School of Law
deshayla.strachan@mitchellhamline.edu

Ken Swift
University of Houston Law Center
krswift@central.uh.edu



AWARDS

Whitney Heard

Co-Chair, Houston

Jessica Kincaid

Co-Chair, Penn State

Jeffrey Cohen, Boston College

Laura Graham, Wake Forest

Mary Harokopus, Mercer

Delores Korb Mayer, Wayne State

Anjali Prakash, American

Anne Ralph, Ohio State

Kristen Tiscione, Georgetown

DIVERSITY

Jazzirelle Hill

Co-Chair, Loyola

Alissa Gomez

Co-Chair, Houston

Brenda Bauges, Idaho

Amanda Fisher, Seattle

Brenda Gibson, Wake Forest

Ashley Hilliard, NC Central

Dennis Kim-Prieto, Rutgers

Andrea Martin, Penn State

Nyla Millar, Widener

Katrina Robinson, Cornell

Susan Tanner, Louisiana State

Kathy Vinson, Suffolk

2023 SECTION COMMITTEES

NOMINATIONS

Michelle Cue

Co-Chair, DePaul

Suzanne Rowe

Co-Chair, Oregon

Heather Baxter, Nova

Candace Centeno, Villanova

Tessa Dysart, U. Arizona

Wendy-Adele Humphrey, Texas Tech

Anne Mullins, Stetson

OUTREACH

Tracy Norton

Co-Chair, Louisiana State

Joshua Aaron Jones

Co-Chair, Cal. Western

Leslie Callahan, GW

David Cleveland, Minnesota

Brooke Ellinwood McDonough, GW

Nancy Oliver, Cincinnati

Erika Pont, GW

Bryan Schwartz, GW

Amanda Stephen, U. Wash.

Carolyn Williams, North Dakota

PROGRAM

Maria Termini

Co-Chair, Brooklyn

Hilary Reed

Co-Chair, Houston

Erin Donelon, Tulane

Sam Moppett, Suffolk

Susie Salmon, U. Arizona

Maureen Van Neste, Boston College

Katherine Vukadin, South Texas

Tara Willke, Duquesne

Michelle Zakarin, Touro

Thank you for your service!

MICRO-ESSAYS

Preparing our Legal Writing Students for the NextGen Bar Exam

Sue Chesler

Arizona State University, Sandra Day O'Connor College of Law

Set to debut in July 2026, the NextGen Bar Exam will test a broad range of foundational lawyering skills needed in today's practice of law. According to the National Conference of Bar Examiners, this exam is designed to balance the skills and knowledge needed by practicing lawyers. Broadly stated, the NextGen Bar Exam will assess a broader range of lawyering skills while focusing on a narrower range of acquired knowledge. Examinees will draft fewer descriptive essays as required under prior and current iterations of the bar exam, and perform more client-centered lawyering tasks. Many of the questions will require students to apply existing knowledge, review practice-based materials, and prepare a range of legal documents. The goal is for the bar exam to be a more reliable tool for evaluating the competency of new lawyers by combining the assessment of knowledge and skills.

In order to prepare students for the NextGen Bar Exam, law schools will need to do a better job of incorporating the teaching of doctrine with the teaching of skills. Generally speaking, legal writing professors are ahead of the curve in helping to prepare students because students learn to perform many of the soon-to-be-tested lawyering skills in our classes. But there are additional skills that we may be able to also incorporate into our classes with minimal effort that will help prepare students for this new bar exam. Below I set forth two such skills and provide concrete examples of how to bring them into our classes.

THEME

For the newsletter, are kicking off conversations about our upcoming AALS Annual Meeting Programs.

The Rhetoric of Disagreement: Towards a Civil Zealous Advocacy:

In an increasingly polarized and contentious democracy, lawyers are hardly alone in their struggle to balance zealously advocating a position with engaging in disagreement in a civil and professional manner. As educators guiding future lawyers as they begin developing their professional identities, how can we best prepare students to be zealous but civil advocates?

The AI Era: Leveraging Large Language Models to Improve the Lawyer's Craft:

How is the legal profession already using AI and how might it be used in the future? How can we help our law students prepare to use these technologies? How might AI expand access to justice and how do we help facilitate that expansion?

Learning with Our Students: Adjusting to Our Developing Understanding of the NextGen Bar Exam:

The NextGen Bar Exam will make its debut in July 2026, affecting some current law school students as well as new matriculants. Instead of focusing on content memorization, the NextGen Bar exam will emphasize skills-based knowledge—focusing on legal problem solving, research, writing, and client-management skills. How can law professors respond to this shift in focus?

MICRO-ESSAYS

(Preparing our Legal Writing Students for the NextGen Bar Exam, continued)

1. Working with Practice-Based Documents and Dynamic Facts

Unlike previous bar exams (and most law school classes), the NextGen Bar Exam will provide students with practice-based documents instead of relying solely on hypothetical descriptive fact patterns. For our legal writing assignments, we can also provide students with practice-based documents such as witness interview notes, deposition or hearing transcripts, demand letters, and contract clauses. Many of us already do to some extent. But the NextGen questions will go one step further by including fact patterns that are released over a series of questions. In a legal writing class, we can similarly provide students with a dynamic set of facts. For example, an initial draft of a memo may be based on one or two deposition transcripts and the transcript of a preliminary hearing. An additional witness's deposition and a demand letter with previously-unknown facts can then be provided for a rewrite or other related assignment. In the style of the NextGen Bar Exam, we can also ask our students to evaluate the factual information provided to them, identifying missing facts that would help them make stronger arguments for their client. Since the NextGen Bar Exam will require students to perform these types of lawyering tasks - albeit mostly of a less complicated and time-consuming nature - under time pressures, we should also consider incorporating timed writing assignments. An early draft or ungraded assignment with a shorter factual record may present the opportune time to do so.

2. Performing Transactional Skills

The NextGen Bar Exam is intentionally aimed at preparing students for both litigation and transactional practice and will be testing skills such as contract drafting, revising, and interpreting. While including a contract drafting component in every legal writing course would best ensure that students are introduced to these foundational skills, that is not always practical. Fortunately, there are many other ways these skills can be incorporated into our courses. By creating assignments that relate to a contract-based issue, students can be introduced to these skills. For example, students can be assigned to draft a memo or trial brief analyzing the enforceability of a covenant not to compete, and then also be required to draft or revise a sample clause. We can also ask students to draft a letter to their client explaining the contract language that they drafted, or recommending revisions to an already-existing contract term to avoid future disputes. We are thus introducing our students to the wide range of client matters they may encounter in the bar exam and in practice.

MICRO-ESSAYS

Curiosity, Conversation, and Humility: Preparing Law Students to Use AI

Angela (Anna) B. Debush

Chicago-Kent College of Law

How do we prepare law students to use AI? We cultivate curiosity, encourage conversation, and lead with humility.

When Chat GPT hit the scene in November 2022, many legal writing professors went to a dark place, worrying about how students could use AI to cheat themselves of the critical thinking skills our courses are designed to develop. Now that we've had almost a year to process those fears, it's time to move beyond anxiety and get curious. We can best prepare law students for the AI revolution by asking ourselves big questions. What are the fundamentals of my role in preparing students to be great lawyers? How will being a great lawyer look different when AI tools take over some of the tasks lawyers do today? How can I merge these tools into my teaching to support, rather than detract from, my students' acquisition of critical thinking skills? Cultivating curiosity may help us move beyond anxiety toward acceptance, and even excitement, about the role these tools will play in our teaching.

Once we've reached that acceptance phase, we can start facilitating robust conversations with our students about the role AI will play in their lives as future lawyers. These conversations should create buy-in from students on any limits we initially place on their use of AI. It may be that we don't want students using AI to draft documents until they learn how to create them on their own. Instead of just telling them no, we have to inspire students to want to develop their own drafting skills. This year, I started this conversation with a pilot analogy. We all know that computers do some of the flying on commercial

airlines, and pilots monitor those computers. But would any of us get in an airplane knowing the pilot had never navigated a flight path on their own? We rely on human skill and experience to control the technology that makes flying safe. I told my students that their clients expect the same. They must learn to fly by doing the hard work of writing documents from scratch before their clients can trust them to outsource some of that work to AI. Creating that buy-in was the start of an on-going conversation I'll maintain with my students about the benefits and pitfalls of this technology.

Finally, it's essential that we embrace humility with respect to AI. Many of us have career experience that gives us expertise in research and writing. The harsh reality is that almost none of us has experience practicing law with the assistance of AI tools. The only way to maintain our credibility is to be humble about that truth. We can connect with our students by being honest about the fact that we're learning about AI alongside them, and that just like them, for the moment we have more questions than answers.

We are heading into what may be a turbulent few years in the legal writing community as we adapt to the presence of AI. Embracing curiosity, conversation, and humility may be the best way to pilot our way through.

MICRO-ESSAYS

Prioritizing Process: Assessing Approach in Preparation for the NextGen Bar Exam

Justin Kishbaugh

Roger Williams University School of Law

With the NextGen Bar Exam prioritizing skills-based knowledge over content memorization, law professors will likewise need to shift not only the content and focus of their teaching but also their methods of feedback and assessment. Focusing specifically on the latter of those concerns, law professors generally assess the quality and effectiveness of a product based on the product itself and not the process that created it. Even professors require the revision of a single text still only assess the quality of that process based on the product it generates. While both the current and NextGen Bar Exam will similarly assess their exam takers' product, the revised focus emphasizes and requires that exam takers intentionally employ a logical and repeatable process to produce the "correct" answer. To aid our students in not only producing the correct answer but also employing an appropriate process for arriving at that answer, we, as law professors, must develop means for assessing and providing feedback on our students' process as well as their product.

One method I have developed to help my students create, intentionally employ, and articulate the process they employed to produce a finished text is to have those students also write an "explanatory" paragraph in which they discuss at least three decisions they made while writing their formal submission. I do not grade these explanatory paragraphs for grammar and punctuation; even though the inclusion of the paragraph figures into the final grade, the paragraphs themselves are an informal space

where the students can express themselves without fear of censure or correction. That explanatory paragraph, then, materializes my students' process and intentions so that we can develop their skills and techniques based on their understanding of and purpose for those skills and techniques. Moreover, by asking my students to identify three decisions they made while producing their formal assignment, I am also asking them to prioritize elements of both their writing process and the structural elements within their texts. For example, students may decide to focus entirely on paragraph structure for their three decisions, recognizing that paragraphs carry a greater structural weight and therefore participate more fully in meaning production than sentence structure. As a result, I can then also focus my feedback so it addresses the students' particular intentions for their text, which will further help them improve their process and allow me to avoid overwhelming them with every single way they might improve their text.

Ultimately, the creators of the NextGen Bar seem to have recognized that one's product in the legal profession is often only as good as process that created it. As such, we as law school professors must work to have our students identify and employ intentional and effective processes to arrive at their conclusions and convey them in a written text. I have found the explanatory paragraph works as an effective tool in that process development, and I encourage others to employ it or similar strategies for assessing process as well as product.

MICRO-ESSAYS

Using AI to Support the Internationalisation of Lawyers[1]

Dr. A. Serçin Kutucu[2]

Today's increasingly globalised economy has changed the nature of the legal profession, providing lawyers the opportunity to work for international organisations and multinational companies, or engage with international and foreign clients under their domestic jurisdiction. While such an expansion enhanced lawyers' career opportunities and raised their income potential, it also exposed them to various challenges in understanding and practising international law, foreign law, and global issues[3]. Advancements in AI technology can support lawyers to overcome these challenges, helping them access relevant legal materials, understand different legal systems, and communicate with their international and foreign clients.

One of the challenges that lawyers encounter while practising law at the international level is language and cultural barriers. Internationalisation in the legal industry requires a good command of Legal English and, at the very least, basic level comprehension of different types of legal systems. AI can support lawyers in identifying cultural and legal issues and understanding nuances in legal languages and traditions. It can also provide language translation for lawyers, assisting them in navigating through legal materials in local languages and dealing with international clients[4].

Another challenge is the complex, multifaceted nature of international law. Lawyers must navigate a complex international legal framework. Additionally, it is difficult to find information on foreign legal jurisdictions. They need to research and follow recent legal developments, which requires, at times, going through huge amounts of data and follow-up[5]. Using AI tools, can facilitate it for lawyers to research, read, review and summarize documents and to work through vast

amount of literature and access information in less time, thereby optimising their legal judgement. Accessing and processing information is a costly endeavour which requires resources. AI technology can also support the delivery of higher-quality services with reduced costs and give small partnerships and law firms the opportunity to be a player in the international field[6].

Finally, it is important to note that in no circumstance can AI replace legal advice[7], but it can only enhance lawyers' capacity to research and process data and assist the legal drafting process. Lawyers must always verify the output generated by AI tools and use them in compliance with international human rights laws and their professional code of conduct.

ENDNOTES

[1] The author utilised ChatGPT4 while editing the article.

[2] Dr. A. Serçin Kutucu is a legal consultant specialised in international law. Apart from her area of expertise, she studies and teaches Legal English to both legal students and professionals.

[3] Carmel O'Sullivan & Judith McNamara, "Creating a global law graduate: The need, benefits and practical approaches to internationalise the curriculum", *Journal of Learning Design*, Special Edition: Legal Education, 2015, Vol:8, No:12, p.54,55; <https://www.jld.edu.au/article/download/242/242-582-1-PB.pdf>

[4] Irene Pietropaoli, "Use of Artificial Intelligence in Legal Practice", *British Institute of International and Comparative Law*, 16th. October.2023, p.4; https://www.biicl.org/documents/11984_use_of_artificial_intelligence_in_legal_practice_final.pdf

[5] Law Society of England and Wales, "Artificial Intelligence and the Legal profession", May 2018, p.4; <https://www.lawsociety.org.uk/topics/research/ai-artificial-intelligence-and-the-legal-profession> (access date: 14.10.2023)

[6] Report of the Sheffield Project on the Internationalisation of the Legal Profession, "Technology: Implications on the Nature of Legal Practice and the Role of the International Legal Profession", University of Sheffield, 2018, p.12,16, 22; <https://www.sheffield.ac.uk/media/951/download>

[7] Pietropaoli, p.4

MICRO-ESSAYS

NextGen and Legal Writing

Chad Noreuil

Arizona State University, Sandra Day O'Connor College of Law

As someone who teaches both legal writing and a bar exam prep course, I have been closely following the new bar exam rollout. The bar exam will not officially change to the NextGen bar until 2026, potentially impacting next year's incoming 1Ls. (The current UBE exam will still be offered at least through February, 2028.)

The changes:

The new exam will reduce the number of subjects tested (bye-bye, secured transactions!) and move away from prioritizing the "memorization" of rules. Instead, the exam will focus on skills-based knowledge such as legal problem-solving, research, writing, and client-management skills. There will be three broad categories of question types: multiple-choice questions, integrated question sets (a mixture of multiple choice and short answer questions based on a common fact pattern), and longer writing tasks [similar to the current Multistate Performance Test (MPT)].

Within each of these three broad question types, the NCBE notes seven specific "foundational skills" that will be tested: Legal Research, Legal Writing and Drafting, Issue Spotting and Analysis, Investigation and Evaluation, Client Counseling and Advising, Negotiation and Dispute Resolution, and Client Relationship and Management. (As an aside, I find it interesting that although the NCBE grouped many skills together, they specifically separated "Legal Research" and "Legal Writing and Drafting" rather than combining the two.)

Things we can do:

First, at the core of our classes, keep doing what we are doing! Legal writing may be the only class where students get the practical skills they need to prepare for the new bar exam. Approximately a quarter of the NextGen bar will be similar to a closed memo, where examinees are given a client fact pattern and the law of the governing jurisdiction—which could be case law, statutes, administrative rules, or any combination thereof. Their task will be similar to the current bar exam's MPT, where examinees are asked to analyze or argue a client's factual situation vis-à-vis the given law.

If not doing so already, one suggestion would be to include more types of assessments in grading—particularly with more emphasis on client-based assignments. Most of us assign a closed memo to be written for a partner. Instead, we could assign a client letter (or email) advising the client of their legal situation. We might even consider doing both—a formal memo to a partner, and a second, shorter assignment written to the client.

In addition, shorter client-based drafting or statutory interpretation assignments would help prepare our students for the new bar exam. For our legal advocacy classes, we might consider engaging our students in negotiation exercises rather than just the standard oral arguments. I always do a mock settlement conference as a precursor to my students' oral arguments.

Whatever our individual approach may be, one thing is clear: lawyering skills—and legal writing classes in particular—are going to be more important than ever for our students to pass the NextGen bar exam, so we need to make sure that our students—and our colleagues—are aware of this. With the NextGen bar on the horizon, we should all be advocating for more upper-level writing/skills-based classes. The time is now....

MICRO-ESSAYS

I Preach What I Practice

Robert Somers

Western State College of Law

I teach civil zealous advocacy by preaching what I practice as an attorney.

The People and people make mistakes. Throughout my teaching career, I have maintained a part-time appellate practice representing clients convicted of crimes. The briefing process is standard: I file the opening brief. In response, the People of the State of California—represented by the California Attorney General’s Office—files the respondent’s brief to which I reply. Please try not to be shocked, but the Attorney General and I have made mistakes in our thousands of pages of briefing during my seventeen years of appellate practice.

In my experience, criminal appellants usually do not have strong arguments on appeal that are backed with similar cases holding in their favor—but I can dream of such a case. Conversely, the Attorney General often has exceedingly strong arguments backed by great cases. The Attorney General’s attacks on my tens to hundreds of hours of research and writing per brief feel personal, but they are not; rather, the Attorney General did its job as a zealous advocate for the People. I stress to my students that their job as an attorney is to make the best arguments on their facts using the best authority they can find, but they still may have weak arguments. Unfortunately, their opposing counsel often has better facts, law, and policy when it attacks, and responding with petty or vindictive arguments may be tempting, especially if opposing counsel makes a mistake.

The bigger opposing counsel’s mistake, the more tempted a student may be to throw some irrelevant jabs, but doing so is a major mistake. In my practice, identifying minor mistakes that will not affect an issue or argument constitutes a petty or vindictive attack and wastes the court’s time, so the only reputation harmed is mine. However, when I encounter mistakes that could affect the outcome of a case, such as arguments on the wrong statute, on the wrong material facts, or on a superseded statute, I minimize any criticism of the opponent and focus on my own argument, stating for example: “Therefore, contrary to the law cited by respondent (RB [respondent’s brief] 7), the middle term is no longer statutorily presumed to be appropriate. Accordingly, the trial court was required to state reasons for its sentence on the record at the probation-revocation hearing.” These sentences succinctly notify the court that the Attorney General argued the incorrect statute, remind the court of the current law, and conclude my argument. This example demonstrates to students that dwelling on the mistake is unnecessary for zealous advocacy and would harm my reputation far more than the Attorney General’s reputation.

By preaching what I practice, hopefully my students learn that the response to their inevitable mistakes will likely be more civil if they practice what I preach.

Disclaimer: This Newsletter and related website are forums for the exchange of points of view. Opinions expressed here or on the website are not necessarily those the Section and do not necessarily represent the position of the Association of American Law Schools.