Spring 2017

Surviving Your 1L Year (Again): A Primer for First-Year Legal-Writing Adjuncts

Gerald Lebovits

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Clear the Way to Better Writing: Conferencing a Problematic Draft
Emily Carter explains how she uses conferences to work with students in the lowest quartile of their writing sections to improve what she identifies as their problematic drafts of writing assignments.

A Quick Word About Technology Competence: Implementing a Microsoft Word Training Program
Brian Detweiler discusses the development of the University at Buffalo School of Law's training program initially designed to ensure all 1Ls enter their legal writing classes with the skills to format their assignments correctly. It has since expanded to include instructional videos and practice-related training.

The Care and Feeding of Law Student Research Assistants
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Core Values in the Classroom: Preparing Students for the Emotional Challenges of Lawyering
Tracy Turner highlights the movement toward incorporating core values into higher education and the potential for core values to increase student self-efficacy and resilience, and describes how she has integrated core values into her course.

Thinking on Your Feet: Reflections of a First-Time Online Instructor
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Wrestling Pedagogical Victory from the Jaws of Student Defeat: Walker v. Harvard College as an Object Lesson
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Surviving Your 1L Year (Again): A Primer for First-Year Legal-Writing Adjuncts
New York State Supreme Court Justice, Professor of Law, and prolific scholar Judge Gerald Lebovits provides his advice, insight, and observations based on years of classroom experience to anyone contemplating a position as an Adjunct Professor of Legal Research and Writing. It is sure to become the definitive work on the subject.

Poster: Scholarly, Meet Practice: Developing Sustainable Legal Research Skills
Jan Bissett and Beth Applebaum share their poster illustrating credible and affordable legal resources commonly used in both academia and Michigan practice. They emphasize resources that transition from law school to law practice, facilitating the development of sustainable legal research skills.

Poster: Research Preferences of Law Students: Print vs. e-Book
Mandy Lee and Stacia Stein share their poster indicating University of Illinois College of Law students' format preferences when conducting legal research. The poster reports data gathered in a study conducted during Spring Semester 2016.

Micro Essays: Read some of the most thought-provoking submissions from your colleagues inspired by the prompt “Curriculum Gaps: What topics or skills aren't being taught but should be? Ideally, who would teach them and when?”

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Surviving Your 1L Year (Again): A Primer for First-Year Legal-Writing Adjuncts

By Hon. Gerald Lebovits

Justice Lebovits is an Acting Justice, New York State Supreme Court, New York County, and Adjunct Professor of Law at Columbia Law School, Fordham University School of Law, and New York University School of Law in New York, N.Y.

I. Introduction

Legal writing is the hardest and most important legal art and skill to master. First-year legal writing is the toughest and most critical law-school course to teach or take. And first-year legal-writing students are the roughest and most rewarding crowd in law school. Especially for adjunct professors.

To rephrase the old saying, those who teach can’t do, and those who teach teachers can’t teach. Nonetheless, this article—from someone who violates his own recommendations too often—is designed to teach teachers: prospective, new, and experienced first-year legal-writing adjuncts—lawyers who both do and teach.

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4 Justice Lebovits thanks his law clerk, Alexandra Standish, and his judicial fellow, Danielle Ravich, for their research help and Prof. James B. Levy for encouraging him to write this article. He also thanks his writing-program supervisors, present and past: Susan Chung, Philip M. Genty, I. Cathy Glaser, Mary Holland, Toni Jaeger-Fine, Jethro K. Lieberman, Robert A. Ruescher, Ellen Ryerson, Andrew J. Simons, Ilene Strauss, and Rachel Vorspan.

5 According to 2015 statistics (the most current available) from the Association of Legal Writing Directors (ALWD) and the Legal Writing Institute (LWI) Survey Committee, which compiled responses from 193 American Bar Association-accredited or provisionally accredited law schools, legal-writing adjuncts are used exclusively in the required first-year research and writing programs at 11 schools, significantly (50 percent) at 15 schools, substantially (75 percent) at 14 schools, substantially (75 percent) at 14 schools, significantly (50 percent) at 15 schools, substantially (75 percent) at 14 schools, and not at all at 85 schools. Only 84 of the responding 108 schools that use adjuncts for their first-year research and writing course answered how many first-year research and writing adjuncts in 2015 were men: 475. Even fewer—64 of 108 schools—answered how many first-year research and writing adjuncts in 2015 were women: 611. Even fewer—64 of 108 schools—answered how many first-year research and writing adjuncts in 2015 were men: 475. See http://www.lwionline.org/surveys.html. I thank Professor Alyssa Dragovich of the Sandra Day O’Connor College of Law of Arizona State University for giving me a preview of the data (telephone interview of Jan. 24, 2017). This article is primarily addressed, therefore, to the 1,000+ U.S. adjunct writing professors and to those who want to join them. But I hope that some full-time writing faculty, including writing-program directors who supervise adjuncts, will also find some information useful.

6 Or recently did, if they’re retired, raising children, or teaching a writing class part time while serving a law school full time in an administrative capacity.

7 Writing adjuncts are in good company. They’re part of a law school’s contingent faculty: the full- or part-time but not non-
Whether to use adjuncts to teach legal writing is one of legal education’s many debates. Some argue that “the detriments to utilizing [writing] adjuncts outweigh the benefits.” Others contend that adjuncts “play a significant and valuable role in most law schools in this country,” particularly in skills courses, which include legal-writing courses. Still others maintain that adjuncts are effective, but only when the law school devotes the resources to support them.

Serving as a writing adjunct is an exceptionally rewarding part-time job for those who can handle a classroom with intelligent, impressionable first-year law students; who enjoy teaching and have the time to do it; who have the patience, compassion, and commitment to help law students find their way; who have a passion for writing in the law; and who are dedicated to their current and former students, their writing-program faculty colleagues, and the law school at which they teach. It’s the best way for someone with a day job to enjoy law-school teaching without giving it up. And it’s a significant service to the profession, the administration of justice, and the public.

The first-year writing course—usually called Legal Research and Writing (LRW), Lawyering, Legal Practice, or something similar—is essential for law students. Good writing is fundamental to good lawyering and to getting and keeping good law jobs. Those who can endure the trials of serving as a writing adjunct will find new and fulfilling opportunities, chief among them are the joy of working with law students and a chance to improve their legal writing by teaching it. We know lots about full-time writing professors; we know far less about writing adjuncts. This article offers thoughts and suggestions for you—the current or prospective adjunct writing professor—for developing and teaching a first-year legal-writing course.

II. Drawbacks and Benefits of Teaching Legal Writing to First-Year Students as an Adjunct

Like advancing one’s competency at legal writing, being a good writing adjunct is evolutionary. Even as editing papers becomes tedious over time, classes get better and easier the more the adjunct teaches. Writing adjuncts have their challenges, though. I’ll go through them to show how to overcome them. Then I’ll conclude this section by showing how the positives to teaching legal writing part time profoundly outweigh the negatives.

Learning and teaching legal writing is arduous. It takes time, effort, and intelligence to be good at legal writing—for students and teachers alike. Legal writing is both art and skill, for which there’s

11. Susan Hanley Kosse & David T Butleritchie, How Judges, Practitioners, and Legal Writing Teachers Assess the Writing Skills of New Law Graduates: A Comparative Study, 53 J. Legal Educ. 80, 80 (2003) (“[G]ood legal research and writing skills are vital to the practice of law.”). Good doctrinal grades will get your students a job; good writing will give them a career.

12. Susan P. Lierner & Hollee S. Temple, Did Your Legal Writing Professor Go to Harvard?: The Credentials of Legal Writing Faculty at Hiring Time, 46 U. LOUISVILLE L. REV. 383, 413-14 (2008) (“[T]he typical legal writing professor is a white female hired off the tenure-track with a multi-year contract, earning significantly less than the typical tenure-line law faculty hire. We also know a lot about the workload of these professors, the type of work they do, and the amount of institutional support they receive.”)(footnotes omitted).

13. Lee, supra note 1, at 486 (lamenting that “grading [first-year legal-writing papers] was a physically exhausting and mentally draining exercise”).

Tenured or tenure-track teachers who today make up 76 percent of instructional staff appointments at American institutions of higher learning. Lee Hall, I am an Adjunct Professor Who Teaches Five Classes. I Earn Less than a Pet-Sitter, THE GUARDIAN (June 22, 2015), https://www.theguardian.com/commentisfree/2015/jun/22/adjunct-professor-earn-less-than-pet-sitter (articulating US. lawyer’s thoughts about adjuncting).

8. Bonnie L. Tavares & Rebecca L. Scalo, Teaching After Dark: Part-Time Evening Students and The First-Year Legal Research & Writing Classroom, 17 LEGAL WRITING: J. LEGAL WRITING INST. 65, 90 (2011) (“[I]t is our recommendation law schools utilize full-time faculty to teach the LRW course to all students.”); Lee, supra note 1, at 495-96 (“[I]f legal writing programs continue to be staffed by temporary, part-time teachers who are perceived as less than professors, the legal academy will continue to produce graduates who do not write competitively. The subject should not be taught by other students or adjuncts. The only benefit of such staffing is financial cost, while a heavy price is paid on other fronts.”).


10. David Lander, Are Adjuncts a Benefit or a Detriment?, 33 U. DAYTON L. REV. 285, 297 (2008) (“[M]ake[ing] the use of adjuncts truly beneficial requires resources, including money, energy, and creativity, to construct and monitor an effective and integrated adjunct program.”).
always room for improvement. Legal writing requires practice and persistence, with concepts learned one at a time. Legal writers must engage in high-level thinking that first-year students aren’t used to.

For first-year law students, legal writing is unlike anything they’ve learned before. It requires using fact and law to construct and support arguments. Grammar, punctuation, and citation are important aspects of legal writing that some students never bothered with or excelled at in college. Precision is a must; legal writing is meant for readers who must make a decision and can’t do so based on ambiguities in organization, style, substance, and word choice, or on imprecise issue statements, rule explanations, or synthesizing of authority. Ambiguity might be acceptable in college, but it has no place in legal writing. Critical in legal writing, too, are concision and succinctness—making every syllable count for a busy and skeptical legal reader. College students are used to writing assignments that have minimum page requirements instead of law school’s page or word maximums. Good legal writing is clear, concise, and engaging in ways unheard of in college.

College students rarely take a writing-skills course. But they come to law school overly confident about their writing, and they have skewed views of what a writing course seeks to teach and what constitutes good legal writing. These misconceptions lead to student “frustration, even resentment [and] a detour, if not a roadblock, to progress in learning legal writing. ... that peaks in the midpoint of the first semester, when ... their legal writing assignments ... become more demanding.” And to most students, legal writing is dreary and dull, more so than the college papers they wrote.

Despite the challenges, some lawyers are natural writing adjuncts. The rest of us might find a bit of advice helpful. Much depends on winning writing students over by inspiring, empathizing with, and showing concern for them; by nonjudgmentally encouraging animated but respectful class discussion and opinion; by being organized and prepared for class; by giving fair assignments and then grading them fairly and quickly; by showing enthusiasm for the course; and by illuminating why legal writing is relevant and important. The teacher’s goal is to cultivate, promote, and nurture personal fulfillment and intellectual, academic accomplishment in a safe, stress-free, and professional environment.

Much also depends on teaching students to master the subject. The substance of a legal-writing class comes down to teaching students a new way to communicate. That’s a challenge for adjuncts whose students might:

- avoid complex analytical thinking;
- report everything they know, regardless what the reader needs;
- focus on what they perceive is their professor’s preferred writing style;
- want to make simple things complex instead of the other way around;
- doubt the value of writing in simple, plain English when some of the cases and articles they read in their doctrinal classes are plastered with legalisms and archaic expressions;
- enter law school believing from the media that adjectives, adverbs, cowardly qualifiers, overblown advocacy, exclamation points, and unsupported conclusions are the best way to persuade;

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15 Id. at 92.


17 Felsenburg & Graham, supra note 3, at 280.

18 Teresa Godwin Phelps, The New Legal Rhetoric, 40 SW. L.J. 1089, 1102 (1986) (“Law students too frequently acquire their new ‘tribal speech’ by imitating the style of the appellate opinions they read, by quoting judges’ words at length, and by incorporating alienating and stuffy legalese.”).

19 See, e.g., Joseph Kimble, Writing for Dollars, Writing to Please, 6 SCRIBES J. LEGAL WRITING 1, 37 (1997) (“[P]lain language saves money and pleases readers: it is much more likely to be read and understood and heeded—in much less time.”).
think that outlining means more work, not less;
confidently profess that the only place to conclude is at the end of a document rather than at the beginning, with a road map;
feel that IRAC stifles their creativity and unique voice;
see fact and opinion as one and the same; or
insist that they know more about writing than their writing teachers because they were English majors.

And even if some lawyers are good writers and communicators—or good teachers, for that matter—it doesn’t mean they also know how to teach others how to be good writers and communicators in the law.

A first-year legal-writing class is often a law student’s first contact with the legal system. Writing professors are usually the first ones to explain to students the hierarchy of the courts, the differences between mandatory and persuasive authority, how to decipher statutes, and how to extract a rule from a case. Writing professors must teach students a wide range of skills that include not only clear written expression but also logical organization, proper citation form, and persuasive expression through Moot Court. But their students have no context to understand these skills. First-year students get frustrated by this lack of context. They might not get it until their second year, after the adjunct’s writing course is long over.

Student challenges are further exacerbated because they quickly “experience[] a counterproductive plummet in their confidence levels when they realize[] that learning legal writing would be much more difficult than they had expected” and because they “incorrectly believe[] that their prior strengths and weaknesses as writers would transfer directly to legal writing.” Still other challenges arise because some students might resist writing like lawyers because they resist becoming lawyers.

The difficulty teaching law students new things pales to dealing with their grades—unless you, the writing adjunct, teach in a first-year writing program in which you grade students once, only at the end of the year, after the students submit their evaluations, and on a scale of high pass, pass, low pass, or fail. Writing professors bear the brunt of first-year law students’ stress about grades, especially because legal-writing grades predict how well students will do in other courses. First-year grades and class rank factor heavily in determining which students get onto law review, receive honors, scholarships, summer jobs, internships, externships, and coveted positions post-graduation. And poor grades are as harmful to law students as good grades are helpful.

Writing students have trouble managing grade expectations and self-esteem. Students who did well in college now compete in law school with equally good or better writers. Students’ egos are wrapped up in writing. Criticism can upset and deflate them. They expect to learn everything at once rather than

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23 Christopher Rideout & Jill J. Ramsfield, Legal Writing: The View from Within, 61 Merc. L. Rev. 705, 744 (2010) (“[L]egal writing professors need to be aware of what they ask of their students when they ask them to write like a lawyer—the construction of a new identity—and they should understand that some of the struggle or resistance they see in their students is part of the process of becoming a lawyer.”).

24 Some argue that a pass/fail legal-writing course will cause students to work less hard than they would in a graded doctrinal course. They also argue that the legal community will take legal writing less seriously if it’s ungraded in law school. See, e.g., Helene S. Shapo & Christina Kunz, Brutal Choices, Should the First-Year Legal Writing Course Be Graded in the Same Way as Other First-Year Courses? 2 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 6, 6 (1993). But “Legal Writing should be ungraded not because it is inferior to doctrinal courses, but because it is different from doctrinal courses.” Steve J. Johansen, Brutal Choices in Curricular Design, Life Without Grades: Creating a Successful Pass/Fail Legal Writing Program, 6 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 119, 120 (1998).

25 See Leah M. Christensen, The Power of Skills Training: A Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success (Or in Other Words, It’s Time for Legal Education to Get Serious About Skills Training If We Care About How Our Students Learn), 83 St. John’s L. Rev. 785, 797 (2009) (finding that grades in lawyering, a legal-writing course, are “the strongest predictor of law school success”); Jessica L. Clark, Grades Matter: Legal Writing Grades Matter Most, 32 Miss. C. L. Rev. 375, 375 (2014) (providing “data support[ing] the anecdotal relationships between good grades in LRW and good grades in other first-year courses”).

26 Felsenburg & Graham, supra note 2, at 227-73.
27 Id. at 226.
28 Id. at 227.
incrementally.29 They’ll definitely become deflated unless they accept that their writing might worsen under good tutelage until it becomes better.

Unfortunately for you, the legal-writing adjunct, you’re the first to grade 1Ls. They’ll receive several grades in their writing course before they’re graded—after one final exam—in any other course. Some law students feel that their writing grades are subjective, even arbitrary, and that leads to resentment. Writing is subjective on some level, but all teachers know the difference between good and bad legal writing. Given the emphasis the legal profession places on first-year grades, finding a way to assess first-year students accurately is a hurdle all professors must overcome.30

First-years would be happier with their writing course if they had the option not to take it. But they don’t. Legal writing is a mandatory course, not an elective, for all first-year students. If they had the choice to opt out, few would enroll. First-year writing students aren’t a self-selecting group; they’re assigned to their professors and can’t even pick the day or the time of day to attend the class.

Whom better to vent against than an adjunct? Students know that a writing adjunct isn’t a full-time doctrinal, or podium, faculty member. In the academy, adjunct professors can’t and don’t have the same status as full-time professors. Law school is a caste system, with adjuncts placed at or near the bottom. It’s significantly easier to get a job as an adjunct than a tenure-track job. Most full-time, tenured American law-school professors went to top law schools, earned law-journal honors, completed distinguished fellowships, and served as federal law clerks. They have teaching experience and publishing credits that few adjuncts possess, even though adjuncts on the whole have more practice experience than their doctrinal counterparts.31

And among adjuncts, legal-writing adjuncts may be respected the least, certainly at some schools. One reason is that legal-writing professors teach a subject that some incorrectly view as plebeian and remedial, even though all agree that legal writing is among the most important talents a lawyer must have.32 Another is that, as leading scholars contend, many American law schools have established a “pink ghetto” in which women primarily teach writing courses. According to these scholars, American law schools perpetuate a version of gender discrimination that “no law firm or corporation would dare institutionalize”33—which students pick up on as well: “Students are more likely to complain about female teachers than male teachers.”34 Still another is that adjunct

29 Sherri Lee Keene, Are We There Yet? Aligning the Expectations and Realities of Gaining Competency in Legal Writing, 53 Duq. L. Rev. 99, 103 (2015) (“Legal writing professors understand that effective legal writing is not a skill that is easily acquired and that no law student can truly master legal writing in their first year.”).

30 Aizen, supra note 28, at 776-78.

31 See generally Liemer & Temple, supra note 12, at 425 (discussing backgrounds of full-time writing professors, finding their credentials at or near the doctrinal faculty, and noting that “many legal writing professors without tenure-line appointments have credentials equal to many professors with doctrinal, tenure-line appointments”). To the extent that some writing teachers have lower objective qualifications than some tenured or tenure-track faculty, law schools should fix that by making full-time writing positions tenure track. See Mary Beth Beazley, ‘Riddikulas!’: Tenure-Track Legal-Writing Faculty and the Biggert in the Wardrobe, 7 SCRIBES J. LEGAL WRITING 79, 84 (2000).

32 See Philip C. Kissam, Thinking (By Writing) About Legal Writing, 40 Vand. L. Rev. 135, 142 (1987) (“The argument that English teachers should teach writing and law professors should teach law...is wrong because it ignores the fundamental contribution to learning that can result from a commitment to critical legal writing. Nevertheless, it is instructive to ask why law professors have ignored or simply missed seeing this aspect of writing as thinking.”).

According to Terri LeClercq, “Although the legal faculties are much more accepting of legal writing professionals in 2017, in 1994 many full-time faculty assumed we were momma-track escapees from law firms and had little to offer students...That’s a significant barrier to assimilation, and it can create a legal-writing ghetto where those professors talk only to each other rather than risk rebuff from substantive faculty. And that diminished their effectiveness because assimilating writing projects into substantive classroom discussion helps legal writing assignments, too.” Email from Terri LeClercq to author (Jan. 20, 2017, 11:41 AM EST) (on file with author).


writing teachers rarely stay at a law school for very long. Although some adjuncts serve longer than the full-timers with short-term contracts, most writing adjuncts come and go after a few years. Some move on; others burn out. That makes it hard to form bonds. Part-time legal-writing professors are at bottom of the law school’s caste system and, some may contend, full-time legal-writing professors are, sadly and unjustifiably, only a few rungs above them.  

Compounding all that, legal writing isn’t a priority for some students, and other students get upset because the first-year writing course requires far more work per credit than other courses. These and other factors can occasionally lead to poor student evaluations, or ratings, of their first-year writing teachers, especially the adjuncts. Sometimes, first-year writing students will complain about a writing adjunct to the dean, an associate dean, or a legal-writing-program director. These students would likely never go to a dean about a contracts or torts professor. Nor would they complain about an adjunct who teaches an upper-class writing elective. Often the first-year students’ complaints relate to their grades (writing adjuncts get fewer complaints when they grade pass-fail). A handful of these will write defensive rebuttals to a writing instructor’s edits and comments on their assignments. If college students merely whine about grades, law students, or occasionally their helicopter parents, argue about them. Sometimes the students who complain the most during the semester or in their end-of-semester ratings are the ones whose writing is the weakest or who detest legal writing in general. They don’t recognize their own inadequacies, or they blame their teachers for them: A strong correlation exists between those who do poorly in their writing course and the blame they assign to their writing teachers. A dean unfamiliar with or unaccepting of this phenomenon might think that all writing professors are dreadful since students may complain so much about their writing class. No wonder some law schools re-examine and change [their writing] programs far more often than they do the rest of their curriculum.”

“...
You must be patient. You must deal with the complainers—and those who intentionally challenge your authority—generously, respectfully, and never confrontationally, vengefully, or in-kind. You must never call students out in class or gossip about them to other students outside class. You must never let them ruin your class or your mood. You must await the day when they’ll see the light. That day will come during the end-of-year Moot Court simulation. On that day you’ll be profoundly satisfied that students who knew little when they began law school will cogently argue the issues in their assigned fact pattern and display lucid legal-method skills. These students might never like their writing class or you, their writing teacher. But their Moot Court performance will prove that they learned their key lessons after all. That’ll make you proud of your students and content with yourself.

Beyond difficult students are miserly benefits. Adjunct professors have few prospects to advance within a law school. They’re rarely invited to make decisions or provide input in managing the institution, although that’s not terrible for most adjuncts, who don’t have the resources, time, or energy to help advance a law school’s institutional development and educational mission. Most full-time writing instructors have long-term contracts and vote at faculty meetings; many even get tenure. And although some writing adjuncts may morph into full-time writing professors once they catch the bug, it’s unusual for an adjunct to become a full-time doctrinal professor of law.

Along with their limited opportunities, adjuncts are ineligible to receive benefits even proportionately comparable to what full-time professors receive. Adjuncts almost never get health or pension benefits. They’re prohibited from teaching too many classes, or too many hours, lest they get benefits under the Affordable Care Act or a union contract, and few law adjuncts unionize. Some schools offer few tangible prospects for adjuncts to excel at teaching (though others offer teaching assistants (TAs), access to administrative assistants, educational seminars for adjuncts, and the like). Even adjuncts who win the students’ favor at one law school will never become so competitive that they’ll secure a higher salary, more prestige, or competing adjuncting offers from more renowned schools. Law schools poach doctrinals from their sibling rivals. They draw the line at poaching their rivals’ writing adjuncts.

Nor do adjuncts have job security. They almost never get long-term teaching contracts; most get a contract one semester at a time. Adjuncts can be terminated for any number of reasons—some understandable, some less so—consistent with their one-semester contracts, if they even have one. Law schools can lay off adjuncts for low enrollment, because of budget constraints, shifts in educational priorities, or scheduling adjustments. Adjuncts are the first to go; it’s easier to bid them farewell than to lay off a full-time professor. Schools can also switch to full-time writing teachers or to other adjuncts they prefer.

And then there’s adjunct pay, a factor that affects first-year writing adjuncts (and full-time writing teachers) more than others. Their modest stipend—combined with a reduced teaching load for the full-time faculty; the adjunct’s

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44 Id.
reputational value; the connections an adjunct can make between the school and the judiciary, law firms, government, and legal-services organizations; the practical skills and real-world experience adjuncts bring to their students; their diversity when the full-time faculty lacks it; and a chance to expand the curriculum—is why schools hire them. Besides, full-time professors combine teaching with service to the law school and scholarship through publishing, things adjuncts aren’t expected to do and usually don’t.

But writing adjuncts have it worse than other adjuncts in terms of pay. At many law schools, they spend considerably more time per credit hour grading papers and meeting with students than any full-time podium professor—and are compensated far less than even other adjuncts based on the hours they teach. The answer is not to teach for money or to impress clients but for the ineffable virtue of teaching so important a course as first-year legal writing to students who’ll recall your class for life.

That said, according to one author, “virtually everyone who seeks a position as an adjunct will tell you, ‘Of course, I’m not doing this for the money.’ We know different. ... Perhaps because adjuncts profess little concern about their pay, law schools too often overlook questions of equity in establishing adjunct compensation rates.”

Today, most schools use full-time writing or lawyering professors rather than adjuncts. For students and law schools, full-time writing professors are better than adjuncts; they have more time to conference with students, edit, grade, prepare for class, and develop an expertise in the subject. Full-time professors aren’t caught up with outside office work or court dates, and they’re professional educators. Writing adjuncts start and end at a disadvantage because their schedules make them less accessible to students.

Scheduling aside, adjuncts who have good, practical experience might not be good teachers. And, unfortunately for the writing adjunct, their experience may be less relevant in legal writing than in other areas. Practical experience as a world-class litigator won’t help you teach grammar and punctuation. And legal writing encompasses topics that transform less often than, say, federal criminal law and procedure.

Despite their reduced status, salary, and job security, writing adjuncts devote massive amounts of time and energy to teaching. Adjuncts must balance their teaching responsibilities with their practice and other obligations. The time commitment to both can overwhelm. Unlike full-time law professors, legal-writing professors, including adjuncts, must spend time working individually with students through student conferences and editing and grading papers. Lawyers looking for a pay day are vastly better off focusing on their own practice than on adjunct teaching.

An adjunct should spend a minimum of three hours preparing for every hour of class time, at least when teaching a new subject. Writing adjuncts typically teach 12–25 students in each class. (Once class size exceeds 12, the adjunct’s editing, grading, and conferencing responsibilities become backbreaking, and the opportunities to teach to individual student styles greatly diminishes). The class spans two semesters, with a lesson once or twice a week for about an hour or two each time. Depending on the school, writing or lawyering courses are one-, two-, or three-credit courses a semester. In one typical 14-week semester, teaching a two-hour, two-credit course requires at least 84 hours of preparation time, in addition to scheduled class time. Add an extra 45 minutes per student for one-on-one conferences in the middle of each semester. For a class of 14, that’s another 10.5 hours a semester. That totals 122.5 hours each semester before other variables, including editing and grading papers.

The time it takes to edit and grade papers will vary. Each writing student will likely submit two to four papers a semester. Grading time depends on whether a TA is available to help the adjunct by doing a first round of edits. The time also depends on whether...
the instructor checks citations by reading the cases and secondary authority the students cite, perhaps by requiring students to create a source file. Doing so is good practice, but it’ll result in spending significantly more than an hour per paper and thus can rarely be done by adjuncts. Mostly, grading time depends on the students. Excellent and horrible papers are easy to comment on and assess; even when the adjunct comments globally on the positive and the negative, there’s less to say about those papers. It’s the ones in the middle that take the most time.

If the adjunct factors in other variables, such as preparing a syllabus, drafting original fact patterns, staying current with legal trends, answering emails from students and program administrators, travel time, recording grades, writing references, and meeting with students, the time spent teaching adds up—and can spiral out of control into a full-time job if you let it.

Nor does scheduling always work out. New adjuncts often don’t get their preferred teaching time slot, usually early in the morning or early in the evening. It’s chosen for them by the writing-program director or administrator, who’ll try to accommodate schedules but might not succeed.

Now that we’ve discussed the drawbacks to part-time legal-writing teaching—as America’s leading legal-writing authority put it, “of all law-school courses, legal writing is both the single most time-intensive subject and the least respected”—here are the benefits. There are many. For those with the stomach to become a legal-writing adjunct professor—and for those willing to put in the time and effort to be the best adjunct they can be—the advantages far exceed any shortcomings.

One valuable, indirect benefit is that by teaching legal writing, your own writing skills will greatly improve. Writing is a critical skill to master, not only for lawyering but in all everyone does; lawyers are America’s best-paid writers, after all. Teaching legal writing is the best way to develop an expertise at writing, which is thinking at its hardest. You study the subject matter by preparing for class and for all the questions the students might ask. You’ll identify your strengths and weaknesses by correcting students’ papers. Teaching legal writing sharpens the teacher’s writing.

And teaching anything, especially at a law school, where students are smart and engaging, enhances your speaking and presentation skills. No matter how good you are at public speaking, you’ll get better. You’ll become more confident and graceful.

In terms of direct benefits, adjuncting will open doors for other career opportunities and speed up a promotion or another job. A law-school affiliation makes it easier to get published. The time it takes to prepare for classes and edit papers will become less time-consuming with experience and make the endeavor worthwhile. If that’s the case, adjuncting is a great way to supplement income. Plus, an adjunct will be eligible for educator discounts.

Far more important than the money (or lack thereof) is that teaching legal writing is fulfilling and meaningful. It’s a privilege to work with students and other faculty colleagues who teach legal writing. You can mentor other writing adjuncts and be mentored by them. The relationships a writing adjunct develops with writing colleagues can last a lifetime. Lasting relationships that develop with students in the classroom are deeply rewarding, especially when former students become mentees, colleagues, and friends. You might one day even see your students in court. Most fulfilling of all, your legal-writing students might, in time, teach legal writing. Then you’ll be a grandparent, of sorts—and your investment will pay dividends.

Some refer to adjuncting as a “coveted token of success” because of the opportunity to share knowledge with those entering the legal profession.


52 Deborah L. Cohen, To Teach or Not to Teach: Adjunct Work Can Come with a Hefty Price, A.B.A. J. (Aug. 1, 2012, 7:00 AM), http://www.abajournal.com/magazine/article/to_teach_or_not_to_teach_adjunct_work_can_come_with_a_hefty_price/#177841.

and because being affiliated with an academic institution like a law school—especially your alma mater—is prestigious and network expanding. That’s why some say that being an adjunct professor is the “ultimate power hobby.” Writing professors—both full-time and adjuncts—play a vital role in shaping a student’s law-school experience and career. It’s an honor to self and the profession in being able to pass along knowledge to law students. It’s ideal for those who teach for the love of teaching without expecting a corner office.²⁶

With or without these benefits and opportunities, a writing adjunct must teach well. They must advance their craft to ensure their students are gaining the skills they need for the remainder of their law-school experience and beyond.

III. Start at the Finish Line

When preparing to teach a first-year legal-writing class, the first question you, the adjunct, should consider is: “What’s the goal of the class?” To drill down further, ask questions like: “What skills do I most want the 1Ls to acquire?” “What overall approach to legal writing and analysis do I want them to take from the course?” “To which other subjects do I want the 1Ls to have exposure?”²⁷ These questions are difficult to answer, and they might change from year to year, based on your past successes and failures and changes within the law school’s writing program or administration. Having a goal in mind for the course and for each class provides focus and direction.

What should students be learning? First-year legal-writing students should walk away from their class understanding not only how to transform a mediocre paragraph into a great one²⁸ but also legal method. Students should first learn about the elements of good legal writing, and then how to identify and use those rules to exhibit good writing practices. The substantive basics of grammar and frameworks for laying out rules and analysis are important. Legal writing is about effective communication. Rules and language constructs are tools to help people communicate with and understand each other.²⁹ Writing professors should know how to explain the purpose of using grammar, constructs, and frameworks.

Writing adjuncts must understand all aspects of legal writing before the semester begins so that they can address student concerns. Legal writing is a unique course because the subject matter is integrated into the doctrinal classes. One paragraph or even one sentence can raise all sorts of writing issues worthy of an entire class. Thus, writing professors need to know about all aspects of their subject so that they can encourage questions and give correct answers as they arise.

Legal-writing courses are best taught in small groups to allow for interaction with students. Small groups are good for writing adjuncts too: there’ll be fewer papers to edit and grade. But small-group interaction allows some students to challenge the adjunct on principles of legal writing or try to find inconsistencies in the adjunct’s feedback. It’s common for students to say things along the lines of, “But we’ve always learned this differently,” because some unknown teacher taught it differently once upon a time or because that student’s approach “looks better” to him or herself. Sometimes a student will point things out to challenge the professor’s opinion, as if to suggest that the student knows more than the teacher—an issue one sees in writing classes but less so in doctrinal classes. You need to know the substance so that you can respond


⁵⁵ Kelly A. Cherwin, The Challenges and Opportunities of the “Adjunct World,” Higher Ed. Jobs (July 29, 2010), https://www.higheredjobs.com/Articles/articleDisplay.cfm?ID=208 (highlighting experiences of adjunct professors and their overall impressions of intangible benefits: “If you are teaching part-time to boost your self-image, make a million dollars, or have a grand corner office, this may not be the best route.”).


⁵⁸ Osbeck, supra note 16, at 428.
accurately. At the same time, you must answer these questions with true and sincere respect for the student, regardless of any perceived challenge to your authority. This same student might come around in time and become your most valued pupil.

You must learn—before your first class—every aspect of good legal writing and bad. You’ll need to know how to handle the nuanced controversies that so many believe, incorrectly, are what count in legal writing, such as whether: to use a serial comma in a series before a coordinating conjunction; to begin a sentence with “and,” “but,” or a conjunctive adverb; to end a clause or a sentence with a preposition; to split an infinitive; to end a possessive sibilant with an apostrophe or an apostrophe “s”; or to use footnotes. You must know how to label and identify topics from the passive voice to nominalizations; from metadiscourse to parallel structure; from sentence fragments to run-on sentences; from hyphens and en dashes to em dashes. You must learn:

- why topic sentences and roadmap paragraphs provide structure;
- why good writing requires rewriting;
- why readers better understand simple declarative sentences written in the positive rather than complex negative conditionals;
- why correct formatting is expected;
- why legibility in terms of the number of spaces between sentences, not to mention font and point size, increases readability;
- why the only person who counts is the reader;
- why block over-quoting is poor form;
- why gender-neutral writing is good form;
- why content eclipses style;
- why modifiers must be placed accurately;
- why good citing is to legal writing what good bread is to a French restaurant;
- why rhetoric properly used isn’t mere rhetoric;
- why American legal writers put their commas and periods inside their quotation marks; and
- why legal writing is, at bottom, planned, formal speech.

You, the writing adjunct, should understand the various frameworks of successful, organized legal writing (in the discussion section of objective memorandums and the argument section of briefs), such as Issue, Rule, Analysis, Conclusion (IRAC), Conclusion, Rule, Explanation, Analysis, Conclusion (CREAC), and similar options. Many resources discuss these issues. Become familiar with them. Unless the law school has training for new writing adjuncts, you should attend conferences, for example those organized by the Legal Writing Institute, and read books and articles on legal writing until you know the subject cold. This deep-dive into understanding writing as a substantive subject will in turn help you explain things to students. It’s not enough to read only the course’s assigned articles or course book. No adjunct writing teacher can wing it by reading only what the students are assigned to read.

Try to close the gap between legal writing in law school and legal writing in practice. One of the biggest criticisms alumni of legal-writing courses have is the difference between law-school writing and writing in practice. Traditional first-year writing courses focus on legal writing in a litigation context that doesn’t expose students to transactional work like contract drafting. Transactional-skills education is behind litigation-skills training, though it’s gaining ground. Lawyers are often hired to

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61 Lamparello & MacLean, supra note 14, at 62.

negotiate contracts, and contract drafting is a useful skill in knowing how to prioritize their negotiation strategy. Lawyers draft a wide array of legal documents other than the inter- and intra-office objective memos and persuasive appellate briefs on which traditional first-year writing students at most law schools focus almost exclusively.

One study conducted to ascertain what lawyers really read and write in practice noted that first-year associates infrequently read judicial opinions in their day-to-day activities. Junior associates primarily write emails to their supervising attorneys; the emails include summaries of research findings and projects. Junior associates also rely heavily on templates and sample documents to understand the format their documents should take. Many better law firms prepare recent graduates for practice by providing additional training on lawyering skills to reduce the daylight between what’s taught in law school and what’s done in practice. One recent alumnus who participated in such training put it this way: “What they taught us at this law firm is how to be a lawyer. What they taught us at law school is how to graduate from law school.”

Whether a law school can or should make its graduates practice-ready, you, as a first-year writing adjunct, can’t and shouldn’t try. New law students must walk before they can run, so you must focus instead on fundamental skills: how to think, question, analyze, research, and write like a lawyer. Still, if your writing program gives you the discretion to create your own syllabus or to deviate from the model one, find inspiration from browsing through sample syllabuses, either from colleagues or online. Be critical of the syllabuses you find. Consider what they’re missing. Perhaps they spend too much time on one skill, or not enough, or don’t present the material in an organized, appealing way.

Find out whether an administrator will want to review your syllabus or other material before the semester begins. Regardless, you should complete the syllabus for the first-semester portion of legal writing well before the first day of class. You should prepare a second-semester draft syllabus at the same time. This’ll ensure that you’re prepared to answer any question from students the moment they arrive.

IV. The Syllabus
You’ll want a good syllabus: one that covers a separate topic for each class, from which you’ll deviate as little as possible (for example, by giving your students work not in the syllabus), and which tells your students what they must do to prepare for each class and their assignments.

Consult the writing program’s requirements, standards, and guidelines. Then follow the school’s model syllabus punctiliously if it has one. Having one syllabus for all the writing teachers brings uniformity and consistency to the law school’s legal-writing sections. It also discourages students from complaining that one professor requires more work or is a harder grader than other professors are. If you’re lucky, your writing program might give you an annotated syllabus explaining the lesson plan.

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they're asked instead of telling the student to re-ask their questions the next class or the next semester.

Syllabuses should be proofread to make sure that everything the school requires is included. Make sure assignment due dates fit within the school's vacation or legislative days and your personal schedule. Make-up classes or guest-lecturers (if planned) should also be noted.

While planning the syllabus, recognize that you don't need or want to cover everything. Focus instead on the essentials. Among them are ethics and professionalism in writing. The essentials in your syllabus will depend on the students' skills and what your writing program expects. The weaker the students are, the more basic or remedial the instruction may be. But don't dumb it down; quickly move from the basic and remedial to more advanced concepts. Many students who at first need hand holding, and want coddling, will understand and appreciate the larger objectives of legal writing in time.

A good syllabus is detailed. It'll state learning outcomes (the skill sets you're imparting to enable your students to think and write like lawyers) and allow everyone, professor and student, to be on the same page. It'll protect students and professors from surprise. It'll also help you navigate each class. Short syllabuses are unhelpful in legal-writing courses because they leave too much room for student guesswork.

Summarize in a sentence or two each lesson's goal and include information about assigned readings and grading criteria. State the extent to which you'll assess class participation and attendance and whether and how many points you'll subtract for incorrect formatting and late papers. Codify a rule prohibiting outside help, but consider allowing your students to exchange research for one or more open-universe assignments. Doing so will encourage an interchange of ideas among the students.

Information about how students must submit their papers (by email, TWEN, some other online platform, in class, or at the writing-program office) should appear somewhere on the syllabus. The format requirements of each paper should also be articulated. This may include that papers be submitted in Word (that's better than PDF, which doesn't allow for track changes or show the document's properties), required font and point size, margin width, and word count—which is better than page limits because a word count can't be manipulated through formatting.

V. The Class: How to Present the Material
You, the writing adjunct, should give students context. Legal writing is a law student's first exposure to legal issues. Most 1Ls don't come to class with a context for understanding the purpose of writing memorandums and briefs and their role in the legal system. Providing a framework to students about the rules of civil procedure (though they haven't learned them yet) will help them understand their assignments and the purpose of their writing in a broader context, not merely as an isolated set of tasks. An overview of substantive and procedural issues will also help students understand the real-world context of how important their writing skills are. That'll engage students; they'll understand the overall purpose of the assignments and appreciate it when they're already familiar with a topic before a doctrinal teacher begins to cover it.

Consider courtroom simulations to introduce the legal system. Students might be shown a demonstration of an e-filing platform or what a complaint, a motion for summary judgment, or a motion to dismiss looks like.

You should also introduce the legal-writing framework. Show students proper grammar constructs by giving examples of mediocre paragraphs and allowing them to compare those paragraphs to first-rate examples. Discuss the strengths and weaknesses of each. Spend time introducing various legal-writing frameworks

\[69\] Armstrong & Terrell, supra note 57, at 20.
like IRAC, CREAC, or similar variants. Students can become familiar with the framework through color-coding exercises that identify the issue, rule, analysis, and conclusion. Introducing frameworks with examples from outside the law will appeal to the students’ creative side. One writing professor suggests using excerpts from Shakespeare to help students identify the parts of IRAC.

The Socratic method, effective when it fosters active discussion and real Socratic dialogue, keeps students engaged, but only to a point. Consider other ways to make the class interactive and engaging. Teaching topics about which you’re passionate will make the entire class more interested in learning. As the saying goes, “To get them interested, be interesting.” And just as one can’t learn to play football only by reading a book or listening to a lecture, law students can’t learn writing only by reading about it or from lectures.

Keep students interested by teaching the material in a variety of ways. Some people learn best visualizing charts; others, through role-playing. Flow-charts and PowerPoint slides are fun and helpful tools to explain ideas and rules. Assignments can be made more realistic by turning the classroom into a law firm and by having students come up with a solution to a client problem. You can moderate the Bluebook blues by making it a game like “Bluebook Bingo” or “Jeopardy” and award modest prizes to individuals and teams. One technique to use with better students is a “flipped” classroom, or flip teaching, which rearranges the class format. A flipped classroom has students learn the material in advance of class—perhaps by listening to a webinar you’ll create with help from the school’s IT department—and then do interactive in-class exercises, perhaps group exercises.

Students often ask writing professors for models of good writing. It’s difficult to give them a complete model (except for formatting). Judicial opinions aren’t the best models for students; judges have agendas that lawyers don’t. As to content, the closer the model is to the exercise, the more likely the students will copy what they see. But the biggest problem with “students’ desire for examples of good writing they could emulate result[s] in part from their desire to be able to fit legal writing into a formula that would correspond to their formerly successful ‘outside-in’ approach and produce successful results each and every time.”

Instead of using models, peer- and group-editing activities can help students identify good writing from bad. These, along with team-based exercises, will also engage students. A team-based activity can include having students work together in groups to edit a paragraph. For example, you can select a few examples from an earlier semester to review with the class. Then you can give feedback on a model paragraph and ask students to critique the other paragraphs individually or in teams.

If you feel comfortable with the class, select a few of the student’s own paragraphs to use in a peer-editing session. But if you do, keep the student’s identity anonymous. Never hand out a paper to the class with the student’s name on it. Delete the student’s name and school ID number. Otherwise, the student will be embarrassed, it will reflect poorly on you, the lesson will be ineffective, and it can raise privacy concerns.

Writing is a social process. Hearing feedback and editing suggestions from other students in the class is an effective learning tool. It also may

70 Turner I, supra note 59, at 357-58.


72 Levy, supra note 2, at 107.

73 Id. at 104.

74 Id. at 107.

75 Id.

76 Marci L. Smith & Naomi Harlin Goodno, Bluebook Madness: How to Have Fun Teaching Citation, 16 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 40, 41-43 (2007).


78 Felsenburg & Graham, supra note 3, at 270-71.


80 Id.

81 Id at 190-93.
Respecting students should be every writing adjunct’s priority. Together with their loved ones, your students made great sacrifices to be in law school. And they’re rightly proud of, and nervous about, being there.

Set an example of respect and professionalism from day one. Always be unfailingly respectful with other faculty and students. To receive respect from students, the adjunct must give respect. Understand your students. Point out how you went through the same experiences they did in law school and in learning the materials you’re teaching them now. Say nice things to your students, inside and outside class—and mean them.

The principles of respect come from three propositions about teaching law students, from Kent D. Syverud, now-Chancellor and President of Syracuse University:

First: Your students will know whether you like and respect them, and if they know that you do not, you will fail as a teacher.

Second: If your students know that you like and respect them, they will forgive a great deal in the classroom.

Third: If your students know that you like and respect them, they will come to you for as much advice and support as you have the time and energy to provide.

Respecting students means respecting their time. Budget your time. Get to class early, give students all school-mandated breaks, end the class at the scheduled time (to give the students a break before their next class and to make your classroom available to the next group), and stay a few minutes after class to answer questions in the hallway.

Respect also means remembering their names. You may call students Mr./Ms.—old-school stuff—

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or by their first names. Use or create a seating chart to help remember names. Mnemonics or other memorization techniques will also help.

Most adjuncts prefer that students not call them by their first names. An adjunct’s role is to teach and assess students, not to be a student’s friend. To encourage students to call you “professor,” list yourself on the syllabus and in assignment fact patterns as “professor.” Enforce how you want to be addressed by asking your TA to call you “Professor Smith” in class.

Respecting students includes following your syllabus closely. The syllabus details how you and your students will accomplish class goals. Students will plan their schedules—doing their readings and submitting their papers—according to the syllabus. Keep class-discussions on topic and don’t fall behind. Control class discussions and content to address lesson goals during class time.

Students will occasionally ask off-topic questions. Lead students back to the topic. One technique is to rephrase the student’s question to addresses the lesson’s goals.

Don’t go off topic yourself by telling too many war stories and yarns. Although some tales might be relevant, and sharing a practical perspective can be effective, a long retelling will distract, bore, and possibly self-aggrandize. Also, humorous anecdotes make content interesting, but not everyone has the same sense of humor. Be wary of telling jokes, especially elongated ones. Mild humor directly related to the subject can be memorable and compelling, though good legal-writing humor is hard to find and harder to deliver. Respecting students includes never making a joke at their expense or discussing politics or religion unless those sensitive topics relate directly to the subject matter.

When asking questions, most students are well-intentioned, and some will be insecure. Some well-intentioned but insecure students will find it difficult to know what to ask and how to ask it. Gently encourage the insecure student to participate in class, even though they won’t want to be singled out. Get the student to participate by asking easy questions at first. That’ll build confidence.

Holding meetings at school, where it’s convenient for students to meet and where adjuncts can hold one-on-one conferences. Scheduling meetings at your office—a long way away from school—should be avoided. It’s difficult for students to commute to an adjunct’s office.

Accommodate disabilities—whether the students have low vision, are hearing impaired, suffer from narcolepsy, need wheelchair-accessible environments, or are learning disabled—and different learning styles, voices, and abilities.

Control your class. Don’t let students disrespect each other, fight with one another, or drag class discussion off topic.

Make it a priority to return students’ emails promptly. Email isn’t always the best way to answer a student’s question, especially when the question requires a detailed or sensitive response. A face-to-face meeting might be more effective. Arrange to meet at a mutually convenient time. Students have different abilities, and some need more attention than others. Make yourself available to students who need extra attention. But the student must want to meet. Except for attendance at mandatory conferences,

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85 Levy, supra note 2, at 107.

86 Susan Johanne Adams, Dealing with Disabilities, Because They’re Otherwise Qualified: Accommodating Learning Disabled Law Student Writers, 46 J. LEGAL EDUC. 189, 215 (1996) (noting that “the needs of the learning disabled are not so easily ascertained and addressed. As a practical matter, this obligation will fall largely on legal writing faculty. . .”).

87 Robin A. Boyle & Rita Dunn, Teaching Law Students Through Individual Learning Styles, 62 ALB. L. REV. 213, 221 (1998) (“The legal writing course readily lends itself to working with students’ individual strengths because often there is an emphasis on teacher-student conferences.”); M.H. Sam Jacobson, A Primer on Learning Styles: Reaching Every Student, 27 SEATTLE U. L. REV. 139, 173 (2001) (“Professors can acknowledge the different modes of absorbing information by supplementing text with visual, oral, and aural cues.”); Paula Lustbader, Teach in Context: Responding to Diverse Student Voices Helps All Students Learn, 48 J. LEGAL EDUC. 402, 403 (1998) (explaining how to lower students’ learning barriers created by “the institutional environment, the competitiveness, the narrow view of success, the psychological stress, the outside pressures from family and financial problems, and most resoundingly—their feelings of alienation”).
Integrity means applying the same rules to every student. Deduct points for late papers, ones that go over the page or word limit, or whenever the student doesn’t follow instructions for assignments outlined in class and the syllabus.

Adjuncts must act with integrity. That means doing what you say you’ll do. Unless you’re answering a student’s questions, don’t cover a topic not foreseen in the syllabus. Similarly, don’t tell students that you’ll cover a topic you know you won’t. Don’t change grading methods midstream. Set expectations from the start. Adjuncts who stray from those expectations break promises.

Set clear rules about how you’ll conduct the class. The syllabuses should require students be prepared for class by letting them know you’re grading on participation. If you have a reason to do so, you might note in class that there’s no place for a habit of unpreparedness. Also require attendance and that students submit papers on time. Excuse absences or late papers only if an extension is sought and approved in advance, but be generous with students who have plausible excuses. They’re graduate students; unless you have just cause, don’t demand to see doctors’ notes.

Don’t tolerate plagiarism or violations of your rules prohibiting outside help. Students—especially law students—must be held to high academic standards of integrity and ethics. If you suspect that a student is plagiarizing someone else’s work, you must do something if the plagiarism is substantial, not something minor like a missing quotation mark or citation here and there, whether or not you think the plagiarism is intentional. Err on the side of caution before accusing a student of plagiarism. Unless a student confesses or you have a few paragraphs demonstrating a dramatic departure from the way the student ordinarily writes, you’ll need to know where the student’s unsourced material came from.

It requires effort and good research skills to find the original material; keep in mind that the law school’s librarians can be a great resource in this regard. Adjuncts who accuse a student of plagiarism but don’t have the original unsourced material might find themselves accused of falsely accusing a student. And a good relationship with the student and the law school will end. Always go to the program director for advice about what to do when confronted with plagiarism or unauthorized outside help.

Integrity means applying the same rules to every student. Deduct points for late papers, ones that go over the page or word limit, or whenever the student doesn’t follow instructions for assignments outlined in class and the syllabus. Students who don’t think the rules apply to them will be dissuaded from disregarding rules that show professional competency. If you don’t hold steadfast to your rules, students will treat your class as a low priority. Follow through with the rules and hold students accountable. Applying rules inconsistently or not at all is unfair to those students who follow the rules, and complying with rules shows professionalism. But don’t be mean about it; your students are grown-ups attending graduate school. They shouldn’t be patronized, scolded, or lectured at. If too many students keep breaking the rules, you’ll need to remind them every so often. In that case, the number of students who aren’t following your rules might suggest that you’re at fault for not making your rules clear. Some students believe that the content of their writing compensates for any rule violation and that the adjunct should ignore the violation and reward the good content. Those students are wrong. Rule violations show weak writing skills.

Acting with integrity includes answering a student’s question to the best of your ability. The adjunct must be a legal-writing expert, or as close to it as you can get, before the first day of class. If you don’t know an answer to a question (maybe because it’s off topic), it’s better to be honest than to give a wrong answer or ignore the question. Adjuncts who don’t know the answer should tell students that they’ll look into it and then follow-up in the next class.

Some students will ask lots of questions. That usually means they’re engaged, and you’ll want to encourage a lively, open, and respectful debate. But some students might be so inquisitive they end up dominating the class. A respectful way to allow the class to continue on topic would be to say “Let’s talk about it some more after class.” The student will get the hint. An adjunct looking for other students to participate will ask relevant, pointed questions to get a response. Moving from one student to another while keeping on topic is...
respectful because you’re covering the material while giving others a chance to participate.

Writing adjuncts must skillfully engage students. You can’t hide, given the small class size, the extent of interaction, and the number of assignments throughout the semester. Also, unlike the doctrinals, you can’t wait for an end-of-semester exam to discern whether your students understood you.88

Some students will ask ill-motivated questions to challenge their professor. Often this happens because the student is responding to a grade, feels smarter than the professor, or is a class clown. Respecting students involves responding firmly but with good grace, not defensively or accusatorily. Standing up gently and kindly to a hostile or know-it-all student will help win over the class. Alternatively, you might speak with the student in private, after class.

Respecting students includes returning edited papers on time, as specified in the syllabus. Spacing out assignment due dates in the syllabus will help you grade papers on time and return them well before the next assignment is due. Students will then have the benefit of incorporating your feedback into their next paper. And then, of course, you must submit all final grades on time. This is a law-school must.

Acting with integrity includes always maintaining a professional relationship with students. Don’t socialize or drink with students except at recognized school events, and even then be moderate. At all informal student interactions, you’re a professor who represents the law school. Don’t complain to students about anything. Don’t do business with students. Don’t flirt, or appear to flirt, with students; that behavior has been an academic death-penalty offense for years now. Don’t discuss your personal issues with students. Students might want to talk to you about family issues, life, or getting a job. It’s your obligation to listen to them actively and hear them out and then to help them if you can as it relates to the class and their careers. But don’t become chummy with students: friends don’t grade friends. (Wait until they graduate.) And don’t show insecurity by repeatedly asking students for feedback on your teaching style. A novice might glide on an emotional roller coaster, feeling both unwarranted highs and lows after each class. With experience, you’ll stay on an even keel and worry less about what the students think of you.

Acting with integrity also means staying in touch with your writing-program director. If there’s good news to report, pass it along. Similarly, tell your program director about significant problems with the course or a student. Keeping your program director informed will help resolve issues you’re facing in class, and supervisors have a right to be informed. Telling the director about problems with a student will also dampen any problem the student may cause when the student complains about you. Just don’t bug your program director too often or ask too many questions; you’ll become wearisome if you do. Anyway, many questions you’ll have are addressed in the law school’s adjunct handbook. Read it.

Because writing classes are relatively small, you’ll have a unique opportunity to be a resource for students. Writing professors are more attuned to students’ emotional and physical well-being than doctrinal professors teaching large sections. You’ll get to know your students better than the full-time faculty will. Other first-year professors might not pick up on emotional cues; there may not be any papers to submit in those classes. Writing professors are able to tell when a student’s emotions or physical condition are getting the best, or worst, of them. Sometimes a student will let you know whether something’s wrong. Sometimes they won’t tell you, but you’ll notice that a student isn’t focusing in class or submits papers late. Every law school has administrators and a policy to help students with emotional or physical challenges. You’re a lawyer. Don’t be a guidance counselor, a psychologist, or a psychiatrist. Refer the student to the law school’s professional counselor, or alert the counselor to contact the student. Above all else, students must be safe and healthy.

VII. Reading and Writing Assignments: Two Essential Teaching Tools

Many laws schools give adjuncts pre-determined syllabuses with reading and writing assignments.

88 Levine I, supra note 2, at 1071.
That provides uniformity for all students and teachers in what’ll be taught, in the types of assignments the students will receive, and how the course will be graded. You, the writing adjunct, will be lucky if your program director gives you set reading and writing assignments for your class. They’ll be well-thought out and well-written, and you won’t have to prepare readings and fact patterns yourself.

First-year writing assignments at American law schools almost always include objective closed- and open-universe memorandums of law in the first semester and a second-semester advocacy brief (with a rewrite) that links to a Moot Court component.

In the first semester, students learn how to identify issues, articulate the law (and any exceptions), write facts neutrally, and construct a neutral and organized legal argument applying law to fact with proper citing, all with correct and plain English. In the second semester, students shift to advocacy.

If you’re asked to prepare your own reading and writing assignments, here’s how to do it to enable students to complete their assignments using those skills.89

A. Readings
For assigned readings, try to use articles when possible rather than books. Avoid unnecessary or extra student expense. Tuition is high enough; don’t make things worse. Most articles are available for free online, and copies of portions of the book can always be distributed in class if you get the author’s permission or if it’s fair use. If you still want to assign a book, check the price before requiring students to buy it.

America’s legal-writing professors have published excellent books on writing in the past 25 years.90

Many of them have gone into multiple editions. If you use a book, your choices will be so large it would be wrong in this primer to recommend any in particular. But your students must buy a current edition of either the Bluebook or ALWD citation guides. (I’m not getting involved in that controversy in this article, except to note my view that both are excellent at federal and secondary-source citing but less so at New York State citation form.) There are many stellar, short articles, too, in academic and bar journals.

A few pointers about readings: Make sure they correspond to what you’ll go over in class. Discuss your readings in class; if you don’t, your students will stop reading them. And don’t assign too many readings. You can make some readings optional to avoid work overload.

B. Fact Patterns
Develop, before the first class, your assignments for the entire year in the form of hypothetical fact patterns.89

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B. Fact Patterns
Develop, before the first class, your assignments for the entire year in the form of hypothetical fact patterns. The first assignment should be relatively straightforward. The first step is to encourage students to start writing, and you’ll quickly want to get an overall impression of their writing. Often the first assignment is closed: you give students the cases they may use and tell them that they may not cite any other cases. The second assignment should be more complex—perhaps an open-universe memorandum in which the students find the research themselves. The assignment’s legal issues can be narrowed by explicitly stating on the assignment that “XX isn’t an issue. Don’t address it.” Ask your TA, if you have one, to help put the fact patterns together.

Include assignments that connect with each other. For example, ask students to submit a preliminary draft and then a final version later in the semester. It’s a good idea to allow students to submit an ungraded rough draft of an assignment, at least for the first assignment. Alternatively, a suitable assignment might be a rewrite of the discussion section of a memorandum in the first semester or a rewrite of the fact

89 For more information on designing problems, see Lorraine Bannai, Anne Enquist, Judith Maer & Susan McClellan, Sailing Through Designing Memo Assignments, 5 Legal Writing: J. Legal Writing Inst. 193 (1999) (detailing top ten mistakes in creating fact patterns); Grace Tonner & Diana Pratt, Selecting and Designing Effective Legal Writing Problems, 3 Legal Writing: J. Legal Writing Inst. 163 (1997).

A section of a first-semester memorandum as the second semester’s first assignment. To connect assignments, you might also use one of the issues from a first-semester assignment as an issue for a second-semester appellate brief.

A useful legal-writing course will consider the types of tasks new lawyers will need to tackle and develop assignments that’ll help students gain those skills. Help students understand how a single legal issue might have a different outcome under a new set of facts or under a different legal standard. Valuable writing classes help students supplement their understanding of other first-year coursework like civil procedure, torts, or constitutional law when writing professors choose fact patterns that address these areas of law. Similarly, first-year students can learn about the practice of law when you tell them to prepare a memorandum that includes a range of legal documents like settlement agreements and email correspondence.91

Develop assignments by choosing an area of law for students to write about. If assigning a problem related to constitutional law, consider which article or amendment of the Constitution students will address. Choose exciting and timely issues92 that the United States Supreme Court hasn’t yet decided and which the Court won’t decide during your class.

It’s always best if you create new hypotheticals. If you can’t, research hypotheticals and assignments the law school used in the past which are typically located in the writing program’s problem bank. Sometimes hypotheticals used in earlier semesters or publicly accessible hypotheticals offer good inspiration. You may recycle a hypothetical if a legal aspect of it has changed over time or if you change enough facts—or at least dates, places, and names. If there’s no change, students can get ahold of a previous student’s paper. Simply reusing a hypothetical or one that’s publicly available incentivizes students to find an earlier student work product and copy it. Similarly, reusing identical, unchanged hypotheticals sends a poor message to students and a poor signal to the school’s administration.93

You can also look at Moot Court fact patterns like those from the National Moot Court Competition94 or from the NYU Moot Court Board’s problem bank.95 You can’t copy Moot Court competition sources without permission, but they’re good for inspiration because they’ll have a tried-and-true problem with a bench or model brief.

The best hypotheticals get students to argue which legal test should apply to the hypothetical. Uncover cases in which there’s a circuit split or in which certiorari was denied, and especially where there’s a dissent to that denial, to help both sides argue an issue. Set the fact pattern in the fictitious Thirteenth Circuit, where no jurisprudence is binding. Provide enough facts for both sides to argue them. Make the fact pattern procedurally accurate. Do your own research to make sure that there are enough cases on both sides of the issue, but not so many cases that a first-year student will be overwhelmed.

For the second-semester brief-writing assignment, consider choosing two procedurally related but discrete issues: Each student on a two-student team can write and argue a separate issue. For example, the first issue in a criminal-procedure assignment might be the validity of a search; the second issue might be the validity of a confession based on the results of that search. Federal problems are typically better than state problems. They’re national in scope. Give the class an imaginary circuit opinion containing a dissent for students to understand both sides of an issue. Don’t prepare a record. It requires too much effort to create a realistic record, and not having a realistic record will help first-year students focus on the legal argument without getting lost in the nuances of the facts and the procedural posture of the case.


93 Cavanagh, supra note 50, at 4.


For the brief-writing assignment, assign students to teams of two: one for each issue, with both students writing the common parts of the brief (and being graded accordingly). If you have an uneven number, you’ll be forced to have a team of one or a team of three, and a team of one doing one issue is better than a team of three. They’ll be happier, and less likely to complain, if they pick their own teammate. That benefit offsets the negative of forcing students to undergo an awkward social exercise of picking a partner from among their classmates.

VIII. Starting at the Beginning: The First Class

Before the first day of class, send the students a welcome email with your syllabus attached. Confirm the class date, time, and room number in the body of the email, along with a confirmation of any reading assignment for the first class. Most writing programs require that the syllabus be uploaded to the course website (e.g., TWEN, Blackboard, and the like), but most students don’t check the course site as closely as their email. Email is the most effective and direct way to reach students.

Law schools provide resources for adjuncts. Familiarize yourself with those resources before the first class. Among them might be an adjunct office, where you can work, print papers, use a computer, and go online.

On the first day, welcome everyone to the class, introduce yourself and the TA (if there’s one), and have the students introduce themselves. A student introduction sets a positive tone, gets the students to start talking, and assures that all students on the roster (which you will upload beforehand) are in class and in the right place. Explain the syllabus (including the rules and all reading and writing assignments) and the course goals. Discuss grading, including how class participation will be accounted for. Acknowledge that first-year legal writing is difficult and why some students might be apprehensive learning this new mode of communication, but also tell the students why legal research, legal writing, and Moot Court are important. Tell students that because legal-writing classes are small, they’re in a safe forum in which to participate.

Then recast the role of your writing class, your role, and the students’ role. As to the class, tell your students that “they should not be seeking to master the law; they should be seeking to achieve competence in finding, understanding, and using the law.” That will save your students from believing that they must know all the law and regurgitate it. As to your role, tell them “that their audience is not [you,] their legal writing professor; rather, their audience is the practitioner who will ultimately use their writing to make important decisions.”

That approach will prevent your students from devoting themselves to learning your supposed idiosyncratic and subjective preferences and trying elusively to please you. As to your students, tell them that they must take charge of their own learning, that they must leave their egos at the door and welcome constructive critique, that the course is designed to turn them only into advanced beginner legal writers, and that “subject matter mastery and reporting of it that served them well in undergraduate courses will not do ... in law school, because there are no formulas, no shortcuts, and no templates for the hard work of the legal writer, who must perform for himself the entire process...”

It’s also wise in the first class to begin inoculating your students to prepare them for topics they won’t like: “One suggestion for defusing problems peculiar to the legal writing course is for the professor to lay some groundwork before

97 Felsenburg & Graham, supra note 3, at 291.
98 Id. On this point, Felsenburg and Graham believe that “recasting the role of the legal writing professor is the sine qua non of a smoother, less traumatic adjustment for beginning legal writing students.” Id. at 292-93.
99 Id. at 293.
100 Susan E. Provenzano & Lesley S. Kagan, Teaching in Reverse: A Positive Approach to Analytical Errors in 1L Writing, 9 Loy. U. Chi. L.J. 123, 133 (2007) (“The ultimate challenge is to help students understand that errors are a necessary and even desirable part of the drafting and learning process.”).
101 Felsenburg & Graham, supra note 3, at 291.
102 Id. at 294.
introducing unpopular topics.”\(^{103}\) One example: “Everyone says that the rules about citing are absurd. But here’s why lawyers cite…”

IX. Providing Feedback to Students and Initial Assessments

Because writing expresses an internal thought process, students can’t see on their own how their work comes across to a reader. Writers often think they wrote something they didn’t or that they didn’t write something they did. You must tell them.

Constructive feedback is essential to help students assess their strengths and weaknesses. Use constructive feedback to explain to students how they can improve their writing and analysis. Diagnose problems early on,\(^{104}\) and provide immediate feedback to the maximum extent you can. Make your feedback specific. Pointing out, in your written feedback and in your one-on-one conferences, specific examples of what went well and what didn’t go well helps students understand what they need to work on. Connect your written feedback to your conferences by writing “TTMA” in the margin of an assignment—“talk to me about.”

A. Written Feedback

As a preliminary step to providing feedback in writing,\(^{105}\) tell the students before the assignment is due what key areas they should focus on. Then critique the papers on those areas. Written feedback is meant “to reinforce points made in class.”\(^{106}\)

Another early step is to decide whether to give feedback on a student's assignment by hand (perhaps in green; preferably not in red ink; red is aggressive) or using Microsoft Word track changes with balloons. Sometimes providing feedback by hand helps students and professors notice errors. The drawback is that some adjuncts’ handwriting is illegible. The Microsoft Word track-changes function makes edits easy for students to read, and it’s a paperless system: You can return edited assignments by email without scanning them first. But be careful with track edits. Some students will push “accept all changes,” assume they’re done, and “climb on the ‘I fixed everything you pointed out’ grandstand.”\(^{107}\)

Constructive feedback is helpful feedback that most students appreciate and learn from. When students do something well, write “good point,” “good find,” or “good Bluebook.” Similarly, point out where the student's organizational structure, large scale and small, doesn't work and how it can be better. Locate areas of the student's writing that's conclusory. Point out choppy sentences and verbosity. Generic and vague critiques like “awkward,” “incorrect style,” or “say what?” are unconstructive. They don’t direct or guide students.

Instead, label the error in the margin (e.g., “add topic sentence here,” “citation needed here,” “prefer verb to noun,” “missing closing quotation mark,” “vague referent—what does ‘it’ refer to?,” “add pinpoint citation,” “past facts go in past tense,” “subject-verb agreement,” “don’t separate subject from predicate,” “use short-form citation,” “incorrect ellipses,” “dangling participle,” “avoid ‘with’ in the final position,” “more” than what?—complete your comparison,” “widow/orphan error,” “delete preposition,” “use articles for count nouns,” “try ‘that,’ not ‘which,’” “shorten your paragraph,” “add parenthetical after your citation to explain why this case is relevant,” “don’t string-cite for basic propositions,” and so on and on). If the error is clear (a typo, a missing or double word, an absent period, or a required comma), you can merely circle it or correct it by track change. After you label the error, you may explain briefly why it’s an error and also how to fix it.

You might be tempted to rewrite a student’s sentence or even paragraph. Doing so is overly time-consuming—for your own mental health, use shortcuts; you don’t want to devote all your free

\(^{103}\) Judith D. Fischer, How to Improve Student Ratings in Legal Writing Courses: Views from the Trenches, 34 BAYL. L. REV. 199, 208 (2004).

\(^{104}\) Levy, supra note 2, at 103.

\(^{105}\) For three excellent articles on written feedback, see Anne Enquist, Critiquing and Evaluating Law Students’ Writing: Advice from Thirty-Five Experts, 22 SEATTLE U. L. REV. 1120 (1999); Richard K. Neumann, Jr., A Preliminary Inquiry into the Art of Critique, 40 HASTINGS L.J. 725 (1989); Susan M. Taylor, Legal Writing Symposium, Students As (Re)Visionaries: Or, Revision, Revision, Revision, 21 Touro L. REV. 265, 288 (2005).

\(^{106}\) Taylor, supra note 105, at 294.

\(^{107}\) Email from Terri LeClercq to author (Jan. 19, 2017, 5:07 PM EST) (on file with author).
Focus on the writer’s audience. The most productive feedback is to explain what a typical legal reader will take away from the student’s writing.

Don’t dwell on a writing controversy that’s become your personal fetish or make your critiques personal. Don’t point out errors by adding your own exclamation points or angry, mean, or sarcastic remarks or by listing the number of times you’ve fixed that mistake in earlier papers. If you do, the students might not take your suggestion to heart—and might even think you’re out to get them. If you find that you’re becoming overly critical in your comments, take a break, realize that you can’t expect perfection, think positive things about your students, and recall your skills as a 1L.

Avoid appearing inconsistent. Tell your students that they made the same mistake elsewhere, but point out that your comments are located only in one place in the document. Your comment would be something like “correct this elsewhere in your paper.” That way the student won’t come back to say, “You didn’t correct that on page six; you can’t grade me down for that alleged mistake.”

Focus on the writer’s audience. The most productive feedback is to explain what a typical legal reader will take away from the student’s writing. For example, tell the student whether it was engaging to read the entire paper, or perhaps that poor organization will prevent the reader from understanding the argument. If the memo had good organizational structure but the grammar was problematic, write something like this to the student: “Grammar and punctuation aren’t simply matters of personal choice, they follow rules that good writers must know. Make sure to give yourself at least a day to edit. Good lawyers write with flawless grammar and punctuation. You will too once you’ve taken the time to master that aspect of legal writing.”

This example highlights why the edit is important and tells the writer how to improve.

Especially important to constructive legal-writing editing is to comment on the students’ legal analysis. For that you must explain the issue; saying “faulty analysis” isn’t nearly good enough.

If a student misinterpreted a case, you may write something like:

You’ve identified the issue and the relevant cases, but you should spend more time reading the cases carefully. Does Jones really hold this or is it simply dicta? You will often need to read cases several times to really understand how they fit into your analysis. But once you understand the cases on a deeper level, your writing will also improve.

This example shows that applying the correct holding will help the student improve legal analysis.

Include comments at the end of the assignment explaining your overall impression of the work. Indeed, some commentators think that the end comment is the most important of all. Comment on positive and negative aspects. Comment on errors concerning things not yet taught in class. If you do that, you can quickly explain to the student that you didn’t take points off for not knowing something not yet taught. And sandwich your comments. First paragraph: the positives. Second paragraph: what needs improvement. Third paragraph: more positives.

[Writing professors] see a vast distinction in students’ reactions to the feedback they provide. They see students thankful for critical feedback, who use the feedback to learn and improve. But they also see students who don’t seem to benefit from the feedback. They either resist their professors’ guidance, often arguing defensively against it, or they become despondent, avoiding the professor rather than seeking help to improve.

Id. at 40.

108 Rodríguez, supra note 79, at 214.

109 Carrie Sperling & Susan Shapcott, Fixing Students’ Fixed Mindsets: Paving the Way for Meaningful Assessment, 18 LEGAL WRITING: J. LEGAL WRITING INST. 39, 78-80 (2012). The authors of this article also make an important point about how writing students react to feedback:

Id. at 79-80.
B. Oral Feedback

Feedback isn’t always reserved for editorial comments on a paper. Give feedback during one-on-one student conferences, which you should hold in the middle of each semester for anywhere from 30 to 60 minutes depending on the number of students, their schedule, and your schedule. Giving feedback in person requires an approach different from giving feedback on paper. When it comes to legal writing, students’ egos get ruffled. The rule of thumb is generally to make three positive comments for every one negative comment. The conference might include asking the student a series of open-ended questions. Ask the student “what’s your strongest argument?” Or go paragraph by paragraph to help the student understand sentence structure. The more examples you give, the better.

At the meeting, emphasize a student’s strengths and weaknesses. Doing so will avoid getting into discussions about grades. Tell the students in advance that the conference will cover their papers but not their grades. At the conference, make the student feel comfortable and relaxed, and give your students your undivided attention. Talk about anything related to the class, law school, and their future careers, but avoid what one legal-writing director confessed to encountering at his conferences: “With some students, the conferences were deeply psychological, like therapy sessions. It helps the new legal writer focus, and it helps the professor, who then can narrow feedback to fewer comments that track the important aspects of that particular assignment. That helps the new legal writer focus, and it helps the professor, who then can narrow feedback to fewer comments that track the instructions.”

Provide comments that balance the students’ desire to have a positive self-image with constructive criticism. Doing so will make students feel that they can improve and not feel so discouraged they might give up trying. Too much negative feedback might make the student give up. Too much positive feedback, on the other hand, will lead students, perhaps inaccurately, to believe they’ll be getting a higher grade than they will or that they know already how to write and have no room or reason to improve.

To make grading and conferences easier for you and more helpful to your students, create a rubric. A rubric is a checklist, or template, containing all the necessary components to a perfect paper. They’re “detailed written grading criteria, which describe both what students should learn and how they will be evaluated.” A rubric will force you to consider the different things on which a student should be working and on which to assess a student’s strengths and weaknesses. A rubric tells students in advance what’s expected of them, minimizes arbitrary grading, and prevents complaints that their teacher told them what’s important only after they’ve done the assignment.

A grading rubric should include a matrix for adhering to various proficiency requirements aligned with the goals of your writing class. Assign categories for formatting, tone, use of case law, application of facts, citation, analysis, grammar, punctuation, and the like. If the assignment was supposed to be neutral, include that as well. On the other hand, if the assignment was supposed to be persuasive, include that. Creating and filling out rubrics is time-consuming. The solution is to have only three grade levels for each rubric category: exceeds expectations, meets expectations, and below expectations.

Remind students that everyone improves with practice and experience. To that end, give students additional resources to help them improve: encourage them to go to the law school’s writing

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111  Rodríguez, supra note 79, at 198.
112  Taylor, supra note 105, at 288.
114  Rodríguez, supra note 79, at 201-03; Sperling & Shapcott, supra note 109, at 51-52.
117  Id. at 147-50.
118  According to Terri LeClercq, “Rubrics keep the writer’s mind focused on the important aspects of that particular assignment (headings, or counter analysis, etc.—whatever the professor has chosen). That helps the new legal writer focus, and it helps the professor, who then can narrow feedback to fewer comments that track the instructions.” LeClercq, supra note 32. For more advice for new legal-writing teachers, see Terri LeClercq (ed.), What Advice Would I Give If My Best Friend Wanted to Become a Teacher of Legal Research and Writing? LEGAL WRITING INST. THE SECOND DRAFT, Mar. 1994.
"Hiring an academically gifted student doesn’t guarantee a successful professor-TA relationship. The best TAs are easy to work with; they should have a good rapport with you and the class."

X. Teaching Assistants
Not all writing adjuncts have the luxury of using a TA. TAs are beneficial because they’ll help with administrative tasks and may serve as a buffer between student and professor—and they’re inexpensive. The TA can report student achievement and difficulties as well as student complaints. By gathering information from the TA about how students are doing, professors can get a better grasp of their interests and concerns and be able to tailor the course accordingly.

A TA’s responsibilities might include helping prepare fact-patterns and doing either a first edit of student assignments or a review of your first edits. To edit the students’ papers, you need to teach your TA what’s important—what you’re looking for in terms of editing and even the law applicable to the assignment. Show your TA your edits before you return the assignments to your students so that your TA sees how you edited them; your TA will learn how to edit by seeing your edits. TAs can email students about scheduling and other issues and have office hours. TAs should attend each class, set up a PowerPoint demonstration, speak in class to clarify a point (taking pains not to contradict the professor aggressively in front of the students), make announcements, or give short class presentations on citation and the like.

XI. Assigning Grades
Grading is probably the worst part about teaching. Experienced adjuncts jest that they’d teach for free, but they get paid to grade. Grading is daunting, especially in a writing course. Grades are especially difficult to administer in a writing course. Students will feel attached to their papers, and egos get in the way. Check your ego, too. Resist any temptation to edit or grade harshly when large blocks of students didn’t understand your in-class suggestions. If lots of students misunderstood your guidance, perhaps it’s your fault: You weren’t clear enough.

And then there’s the school’s grading curve. It’s hard to think of many schools that don’t have one, one way or another. Even pass/fail writing programs offer high passes only to a select percentage of the class. And when a school doesn’t have a curve for small classes, cofaculty peer pressure will prevent you from assigning inflated grades. Some schools allow departures from the curve if the writing teacher can justify it. Some teachers and many students hate the curve. Teachers must make difficult, conscience-affecting choices between students, and some students believe that no matter how well they do, the curve will always put them down.

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119 Kathleen Elliott Vinson, New LR&W Teachers Alert!: 14 Ways to Avoid Pitfalls in Your First Year of Teaching, 6 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 6, 6 (1997) (“If your school is fortunate to have some type of academic support program, refer students who are having difficulty with any aspect of your course to a skills specialist as early as possible. ... Be sensitive so that the students do not feel stigmatized by this referral. Recommend the referral as an opportunity to receive more instruction about the subject matter.”).

120 See generally Julie M. Cheslik, Teaching Assistants: A Study of their Use in Law School Research and Writing Programs, 44 J. LEGAL EDUC. 594 (1994).

121 Becker & Croskery-Roberts, supra note 56, at 280.

122 Id.
their students to improve, but a curve might encourage some teachers not to want a student to improve; lack of improvement means that the teacher has found the student who’ll get a poor grade that’ll justify raising other grades under a curve. That won’t happen in a doctrinal class with one final, anonymously graded or blind exam in which professors haven’t worked with students over a semester on a series of assignments.

But graduate schools and employers like the curve. It’s an easy, neutral way for them to distinguish between students and to have relatively consistent grading across teachers, sections, and years. A curve isn’t necessarily bad for students. It pushes student grades up if the class is weak. A simple way to apply a curve is to give everyone the highest grades possible consistent with the curve. Consult the law school’s policies about how to grade. Though others may disagree, the best writing course to teach is one that grades on a scale of “fail,” “low pass,” “pass,” and “high pass” in which you don’t grade each assignment individually, but rather submit one grade at the end of a semester, and in which what counts most toward the grade is the final paper. Students won’t be grade obsessed, and professors won’t drive themselves crazy setting grades. But that scale is always a school determination, not yours. Consult the law school’s policies on how to factor in missing classes, class participation, and where the curve is required.

Schools will no doubt have a policy about whether each first-year writing assignment must be graded and calculated for the final grade at the end of the semester or whether the writing professor may give only one grade at the end of the semester and thus not return each paper with a grade. Some schools may give you the discretion—a local rule—to allow you to give only one grade: a final one when the semester ends.

If a school gives you a choice, one final grade, determined holistically, at the end of the semester is your best option: It relieves you of the burden of assigning grades for each assignment, it reduces student grade obsession, and it allows you to judge a student with a more gestalt (and less purely mathematical) approach. But because students still have the right to know how they’re progressing, you must still give them indicators for each assignment using a three-point scale of “good,” “very good,” and “excellent” or “below expectations,” “meets expectations,” or “exceeds expectations.” But be wary about giving an “excellent” on an assignment at the beginning of a semester. Doing so may cause the student to expect a high final grade in the course.

Factor into the final grade a student’s class participation, but don’t consider a student’s effort or lack of effort. Effort is important, of course. It shows that a student is motivated and cares about the course. To become an effective writer, one needs to exert effort practicing the craft. But it’s difficult for an adjunct to know whether a student put in effort. The only way you’ll know whether a student tried hard is if the student tells you. And students aren’t always honest with teachers or themselves about effort. On the flip side, hard workers won’t always tell you how hard they really worked. Grading on effort is like grading by factoring in student complaints or personal discussions. Do that and you’ll foster a system that encourages students to moan and groan. One way to discourage griping is to tell students that you won’t listen to any complaints by brief-writing/Moot Court teammates against one another and that each teammate must pick up the slack of a weak teammate. But that’s not enough, because “effort” is too subjective a concept on which to reward or punish.

Consider this baseball analogy for factoring player effort: Which of the following two baseball players would be the best on a baseball team? One option

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124 One full-time professor suggests, unempirically, that adjuncts give higher grades than full-timers and that they do so to keep their jobs. See W. David East, All About Adjuncts, 12 TRANSACTIONS: TENN. J. BUS. L. 325, 332 (2011) (“[T]he grades in adjunct courses tend to be higher than grades from courses taught by full-time faculty, in part because the adjuncts want to be invited back.”). He doesn’t explain how upsetting the full-time faculty will lead to renewed contracts.

125 Levine II, supra note 34, at 636 (“Holistic grading is easier for an experienced teacher.”).
“Invite students to keep in touch with you and with each other. Be open to mentoring your students in the future. Give students some tips for the immediate and long-term future.”

is the person who practices all day, every day, but during the game strikes out every time at bat. The other option is the person who never practices but is a natural; when it’s game time, the player always hits a home run. Anyone interested in winning a game will hire the player who hits home runs. Giving the one open spot to a hardworking player who strikes out all the time despite effort will punish the home run hitter and perhaps cause the team to lose.

Another grading controversy in legal writing is whether student improvement may play a role in a teacher’s grading criteria. Some believe that students deserve a grade boost if they improve over the course of the semester. But improvement might be more a testament to the professor’s ability than the student’s. Every student’s goal is to improve. And given that your students are likely graded on a curve, or at least on a comparative basis, any improvement the student makes may cancel itself out because students in the same class given the same instruction by the same instructor will improve at the same rate—yet students who improve will think they deserve a high grade regardless. Promising to give students a grade higher than their peers based on whether they improve faster and better than the next student gives students false hope and substitutes merit for amorphous improvement.

Some writing teachers who must grade throughout the semester suggest that they should grade low to allow the students to make progress. But that technique will deflate an adjunct’s student ratings: The students will worry that they’re failing and take revenge.

When calculating grades, consider, instead, whether students continue to make repeated mistakes after being told repeatedly about them. Factor into the grade a student’s ability to integrate feedback; you may properly deduct, or just not award points, from a student who isn’t getting something basic.

Still another controversy is whether to have anonymous grading. Most first-year law-school classes use anonymous grading for exams. It’s effective insofar as it protects students against unintentional professor bias. But anonymous grading can be particularly disadvantageous in a first-year writing class. It can make it more difficult to hone in on a particular student’s problems and thereby offer less personalized, effective feedback. And by the end of the semester (because the class size is small), it may be easy to figure out whose paper belongs to whom. Every student will leave a footprint. That can make anonymous grading pointless.

Ideally, you’ll find ways to follow a mandatory grading curve without letting your students obsess over their grades. It’s counter-productive to the learning process if students become grade obsessed. They’ll lose focus on the substance. Avoid creating a grade-obsessed culture in the classroom. Don’t bring up grades or discuss grading too often during class or during one-on-one conferences. Focus on the students’ writing, not on their grades.

XII. The Last Class, and Student and School Evaluations

The last day of a legal-writing class marks the end of a semester, but it’s barely the beginning for your student. Leave the class on a positive note. Invite students to keep in touch with you and with each other. Be open to mentoring your students in the future. Give students some tips for the immediate and long-term future. For example, explain how to work with supervisors once they get into practice, find a balance between being self-sufficient and dependent, volunteer for assignments, and do pro bono work.

The last class (or, depending on the school, the penultimate class) typically must include time for students to fill out professor evaluations, or ratings. Strongly encourage students to participate in that process during class time. Ratings are conducted online, on paper, or both. Leave the room while students are filling out evaluations to ensure they have the freedom to be honest.

When the ratings are ready for you to see (typically online these days, and always after you submit your grades), understand that most writing

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127 Id. 48-49.
directors consider them but one factor, though an important one, in assessing your teaching.

Directors know that students often rate effective, achievement-oriented first-year-writing teachers poorly. They also know that some writing teachers get inflated reviews because they give inflated grades; flatter students in class, during conferences, and in written critiques; make the course less rigorous; and never “challenge students for being absent or unprepared or missing a deadline or playing solitaire on their laptops in class.”

Ratings are subjective. Take them with a grain of salt. Students who rate at the ends of the spectrum probably went a little too far. But if a third of your students don’t like you or your course, rethink your teaching strategies or you’ll get into trouble. Pay special attention to things within your control, like whether the students believe you’ve demonstrated a mastery of the subject and whether you accomplished class goals and were effective, respectful, punctual, enthusiastic, organized, and clear in presentation. And be mindful of what I wrote above: that first-year legal-writing students rate their writing teachers far more harshly and unfairly than in any other law-school course. Some students at schools in which all students and faculty see every teacher’s ratings even use their negative ratings as exercises in public humiliation. But there are things you can do, and things you shouldn’t do, to earn good, or at least not awful, evaluations. Program directors can help, too. They can ask the students to submit short midterm evaluations before it’s too late and give their adjuncts only ratings summaries, excising obnoxious comments to help adjuncts work better with current students.

One way to close on a good, end-of-semester experience is to organize a pizza lunch or dinner for the students for their last class. Students enjoy this opportunity to come together in an informal, relaxed setting. It also demonstrates the professor’s interest in getting to know the students and to congratulate them on a semester concluded. This gesture can tip the scale on student ratings in your favor, although others might believe this is cynical and manipulative and wouldn’t recommend it.

Adjunct professors are also evaluated—audited—by the writing program’s director or other faculty member who serves on the law school’s adjunct committee. The reviewing professor attends a class, skims your edits on assignments, evaluates the syllabus and assigned fact patterns, and writes a report that the school will consider when it decides to retain you. The report can contain helpful advice for improving your class. You might not see the report in advance of its going to the committee (and from there to a dean) or have an opportunity to comment on it in advance. In the exceedingly rare event that you decide to comment, don’t be defensive. Respect your reviewer’s suggestions about improving your teaching. Incorporate feedback into your lessons to the extent possible, even if some of the advice doesn’t seem right. It’s not a matter of who’s right or wrong. The reviewing professors are more experienced and senior than you. Their reports will contain good advice. Take them to heart.

XIII. Applying to Teach

If the challenges involved in becoming a legal-writing adjunct sound interesting, apply. Research which schools hire adjunct writing professors. Every American law school teaches legal writing or lawyering, but almost half use only full-time professors and another quarter use adjuncts only rarely. Adjunct positions aren’t easy to come by. One publicized (non-legal-writing) example:

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128 Fischer, supra note 103, at 208 n.36 (“[P]rofessors who focused on achievement rather than projecting enthusiasm received lower student ratings but produced students who learned more and did better in advanced courses.”) (citing Arthur M. Sullivan & Graham R. Skanes, Validity of Student Evaluation of Teaching and the Characteristics of Successful Instructors, 66 J. Educ. Psychol. 584, 588 (1974)).

129 Id. at 209.

130 Cavanagh, supra note 50, at 4-5.

131 See supra notes 31-42 and accompanying text.

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“[S]everal hundred' attorneys typically apply for the handful of adjunct slots available each year” at New York University School of Law.133

Prospective adjuncts should begin to network by asking colleagues about adjunct openings and attending bar-association functions to let people know they’re interested in adjuncting.134 Often adjuncts must pitch a new elective course to an academic dean, but that doesn't apply to first-year legal writing, an established course everywhere. To learn about and gain teaching experience, prospective adjuncts should volunteer to teach continuing-legal-education programs and guest lecture for classes, preferably law-school classes. Prospective adjuncts should also participate in programs sponsored by law schools, such as judging Moot Court and trial-advocacy competitions. Sometimes law schools recruit adjuncts directly; adjunct positions at those schools may not be advertised. Otherwise-qualified donors have a decided advantage.135

Some think that prospective adjuncts should contact the associate dean for academic affairs to schedule a meeting to discuss what the law school looks for in its adjunct professors, how adjunct hiring is managed, and what an adjunct's overall experience teaching at the law school is.136 Even if that works for non-writing positions (and that’s doubtful because deans have little interest in wasting time with the stream of lawyers who want to have coffee with them to talk about adjuncting), it doesn’t work for writing positions. Some schools advertise for writing adjuncts; follow the school's directions. If you’re applying blindly, email the writing-program director and attach a cover letter, résumé, and writing sample designed specifically for a position teaching legal writing part time (be clear that it’s not for a full-time slot) at the law school to which you’re applying.

Law schools look for adjuncts who have the time to teach. Before submitting an application, proofread your written materials. They must be well-written and typo-free. Writing adjuncts are expected to have the skills and time to teach students; that means they should also have the skills and time to write good cover letters and résumés.

Applicants with teaching experience and publication credits have a decided edge.137 Interviewers will want to know about the applicant’s connections to the law school. Most schools like to fill writing adjunct positions with their alumni—even those schools that rarely hire their own alumni for tenure-track positions. There’s a preference for former law-review, journal, and Moot Court students and for those who served as TAs, especially legal-writing TAs, in law school. Law schools like to hire well-connected adjuncts who’ll bring distinction to the faculty and expanded course offerings to the curriculum. An important criterion—seemingly more important in adjunct teaching than in many other occupations— is who your references are. Try to get a full-time professor or another writing adjunct at your school to support your candidacy.

Be gentle at the hiring-committee interview: “[L]egal writing professors are expected to have credentials not required of other law professors. ... [W]riting professors. ... are expected to have strong interpersonal communication skills and to exhibit ‘niceness, caring ... [and] patience. …’ They also are not likely to be hired if they exhibit ‘arrogance or an inflated ego’ or ‘rigidity or inflexibility.”138 Professor Kingsfield needn’t apply.

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133 Jones, supra note 53.
134 Cavanagh, supra note 50, at 3.
135 Rosman, supra note 54.
137 At some law schools, full-time writing professors are not required or encouraged to produce scholarship on legal writing. At other schools, some scholarship is expected and supported. Levine I, supra note 2, at 1087.
138 Liemer & Temple, supra note 12, at 425 (footnotes omitted) (quoting Maureen J. Arrigo, Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs, 70 Temple L. Rev. 117, 158 (1997)). As noted, [a]n excellent teacher of writing has to have superlative writing skills, must be an innovative classroom teacher, and must have potential as a scholar. Most of all, an excellent teacher of writing has a caring attitude towards students, an indefatigable sense of humor, lots of common sense, and a willingness to spend endless and often unrecognized hours conferencing with students and critiquing student work. This may or may not be
XIV. Additional Resources

Writing adjuncts should continuously study their material and update their course. Writing about something is the second best way (after teaching it) to learn about it and is closely related to teaching. Learn about legal writing by publishing in legal-writing journals, bar journals, and magazines as well as in nontraditional publications like online blogs for professors and practitioners. It’s a myth that writing about legal writing isn’t scholarship. And it’s a myth “that non-legal writing faculty members do not know how to evaluate legal writing topics.” The better legal-writing articles for teachers are empirical and scholarly, but the best articles for law students, lawyers, and judges aren’t scientific: They explain basic principles of good legal writing—about which adjuncts know a great deal.

The Legal Writing Institute (LWI), an important resource, is a nonprofit organization that hosts forums to discuss the study, teaching, and practice of legal writing; it also publishes scholarly resources and has a listserv for LWI members. The Association of Legal Writing Directors (ALWD), another resource for writing teachers, includes professionals from the United States, Canada, and Australia. ALWD also publishes the same person who comes to you with superlative academic credentials.


140 Id. at 42.


143 For instructions on accessing the listserv, see http://www.lwionline.org/listserv_instructions.html.

Legal Communication & Rhetoric: JALWD. The Association of American Law Schools (AALS) has a Section on Legal Writing, Reasoning, and Research, which publishes a newsletter.

Subscribe to writing journals to continue learning about legal writing and challenges of other writing professors: Perspectives: Teaching Legal Research and Writing146, Legal Writing: The Journal of the Legal Writing Institute,147 the Legal Writing Institute’s Second Draft,148 and Scribes (The American Society of Legal Writers) Journal of Legal Writing.149 The Social Science Research Network (ssrn.com) also provides a service, the Legal Writing ejournal, in which articles related to legal writing are emailed to subscribers every other week. More resources are found on the Legal Skills Prof Blog150 and Legal Writing Prof Blog,151 both of which are part of the Law Prof Blog Network. The American Bar Association has an Adjunct Faculty Handbook geared toward law-school administrators. It offers valuable insights about how adjuncts should teach and how school administrators should use them.152 Yale Law School also has a good publication for those


interested in entering academia as a career path, although it's not geared specifically to adjuncts.¹³³

**XV. Conclusion**

What do law schools look for in a legal-writing adjunct? They want lawyers who (beyond being effective writing teachers who follow school rules and aren't the subject of student complaints) will be popular with the students, give their students internships and externships, hire students for paying jobs, mentor students, bring cachet and credibility to the school, expand the school's curriculum, publish in academic journals, note their school affiliation in their publications and in the media, post their publications on Web sites like ssrn.com to enhance the school's reputation, attend faculty events, judge Moot Court and trial-advocacy competitions, avoid personal controversy that might tarnish the law school's reputation, waive their teaching honorariums, and donate money to the school. But the school will be happy with an effective writing teacher who follows school rules and isn't the subject of student complaints.

What do legal-writing students want and deserve? A teacher who knows the subject, teaches it in an interesting way, respects students, and is a generous (or at least fair) grader. Everything else is lagniappe.

What do you want? The work of a legal-writing adjunct professor is challenging but immensely rewarding. It’s a privilege to teach law students. They’ll learn from you how to read, research, write, and analyze like a lawyer. The habits they’ll master from their writing adjuncts will last a lifetime and affect the administration of justice and people’s lives. You’re rewarded when students tell you how much you’ve prepared them for the legal profession. If you’ve taught a few students to write, then you’ve done good work. But don’t pat yourself on the back. Just keep teaching for the joy of working with smart, dedicated students who are career-oriented and goal-directed. That’s what you want, because one of the greatest contributions you’ll give in your lifetime will be what you’ll give your students.

And here’s my closing memo for law schools that value their students: “[O]ne easy way for law schools to improve their students’ legal writing skills is to place more value on the legal writing professors who teach them.”¹³⁴ Including adjuncts.

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¹³⁴ Lisa McElroy, Guest Post on Teaching Legal Writing by Professor Lisa McElroy, Dorf on Law (July 28, 2011, 12:01AM), http://www.dorfonlaw.org/2011/07/guest-post-on-teaching-legal-writing-by.html. Thus, according to the LWI Policy Statement on Law Faculty (adopted Mar. 2015), as printed in LWI’s Second Draft newsletter, “The Legal Writing Institute is committed to a policy of full citizenship for all law faculty. No justification exists for subordinating one group of law faculty to another based on the nature of the course, the subject matter, or the teaching method.”

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**Micro Essay**

Technological intuition is key. Not all 1Ls are tech savvy, and a lack of knowledge can make using tech intimidating. What we teach shouldn’t be focused on particular software or hardware, which change regularly. We need to ingrain the desire to question, and research the answer, any new tech they face. We need to get students comfortable with learning and exploring new tech to become better more competent users. Only then can they identify whether emerging tech is actually innovative and useful.

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