

# LEVELING THE HILL OF SISYPHUS: BECOMING A PROFESSOR OF LEGAL WRITING\*

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## I. INTRODUCTION

I wrote this Article to fill a largely unexplored area in the literature about making one's career within the law school academy. Lawyers considering their first jobs as a professor of legal writing comprise the primary audience I have in mind for this Article; legal writing professors who are seeking a teaching appointment at another law school, or perhaps even a directorship of a legal writing program, make up the secondary audience.<sup>1</sup>

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Parts of this Article were presented in July 1997 at the Association of Legal Writing Directors conference held in Chicago, Illinois, and at the June 1998 Legal Writing Institute Conference held in Ann Arbor, Michigan. Portions of this Article previously appeared in different forms in Jan M. Levine, *Words from the Podium*, SCRIVENER (Scribes: The American Society of Writers on Legal Subjects, Fayetteville, Ark.), Spring 1997, at 3, and in Anonymous, *The Final Word*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 12. A grant from Temple University School of Law supported work on this Article. I thank the following colleagues for their insights and suggestions on drafts of this Article: Marina Angel and Kathryn Stanchi of Temple University School of Law, Maureen Arrigo and Lisa Eichhorn of the University of West Virginia School of Law, Richard Neumann, Jr., of Hofstra University School of Law, Steven Jamar of Howard Law School, and Suzanne Rowe of Florida State University College of Law.

1. There are many reasons why "legal writing programs" and "legal writing directors" exist in law schools, which usually do not have any other analogues to the "departments" and "department chairpersons" common in other parts of the university. In law schools, these structures and positions are common only in the skills area where there are second-

The size of the audience for this Article may surprise many readers who are not professors of legal writing. At all ABA-accredited law schools, legal writing is a required first-year course.<sup>2</sup> Because the intensive instruction in a legal writing course requires a high faculty-to student-ratio,<sup>3</sup> a school will likely create many more sections of a writing course than sections of the other first-year courses, such as contracts or property, regardless of the status of the persons teaching the writing course. Historically, we have seen a high rate of turnover among those writing professors, although the professionalization of the field means that this is not as true as it once was.<sup>4</sup> Therefore, for reasons both good and ill, the aggregate number of former, current, and future professors of legal writing may be larger than any other group of law professors teaching any other course in the curriculum. Over the years, most often in the pages of the *Journal of Legal Education*, scholars have paid a good deal of attention to the history of legal education, studying who law professors are and where they come from.<sup>5</sup> We have written much about the life of law professors;<sup>6</sup> the written and unwritten rules of the AALS Faculty Re-

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class status faculty teaching in the program. See RALPH L. BRILL ET AL., SOURCEBOOK ON LEGAL WRITING PROGRAMS 97-98, 115-17 (1997) [hereinafter SOURCEBOOK]; Jan M. Levine, "You Can't Please Everyone, So You'd Better Please Yourself": Directing (or Teaching in) a First-Year Legal Writing Program, 29 VAL. U. L. REV. 611, 618-21 (1995).

2. See Jill J. Ramsfield, *Legal Writing in the Twenty-First Century: A Sharper Image*, 2 J. LEGAL WRITING 1, 3 (1996).

3. See *id.* at 4.

4. See *id.* at 12-14.

5. A required text for anyone interested in going into law school teaching (or, for that matter, for anyone interested in going to law school) is ROBERT STEVENS, *LAW SCHOOL: LEGAL EDUCATION IN AMERICA FROM THE 1850S TO THE 1980S* (1983). For classic studies of where law professors come from and their characteristics, see Robert J. Borthwick & Jordan R. Schau, *Gatekeepers of the Profession: An Empirical Profile of the Nation's Law Professors*, 25 U. MICH. J.L. REFORM 191 (1991); and Donna Fossum, *Law Professors: A Profile of the Teaching Branch of the Legal Profession*, 1980 AM. B. FOUND. RES. J. 501.

I previously noted:

In 1980 Donna Fossum's landmark study, based on data about faculty composition of ABA-accredited law schools in 1975-76, showed that "almost 60 percent [of law teachers] . . . were the products of fewer than 15 percent of the nation's accredited law schools." Fossum looked at holders of advanced degrees and determined that "74 percent (2,841) of law teachers were either the primary (J.D. degree) or secondary (LL.M. degree) products of these 20 law schools." To summarize, "33.2 percent of all full-time law teachers received their J.D. degrees from one of a group of only 5 law schools." In a follow-up study of the profession in 1988-89, two other researchers concluded that the pattern showed no sign of changing. The distribution was nearly identical to that in 1975-76, although the number of law teachers had increased by more than a third.

Jan M. Levine, *Voices in the Wilderness: Tenured and Tenure-Track Directors and Teachers in Legal Research and Writing Programs*, 45 J. LEGAL EDUC. 530, 540 (1995) (quoting Fossum, *supra*, at 507, 520) (footnotes omitted).

6. See, e.g., Susan J. Becker, *Advice for the New Law Professor: A View from the Trenches*, 42 J. LEGAL EDUC. 432 (1992); Thomas F. Bergin, *The Law Teacher: A Man Divided Against Himself*, 54 VA. L. REV. 637 (1968); Douglas J. Whaley, *Teaching Law: Advice for the New Professor*, 43 OHIO ST. L.J. 125 (1982).

cruitment Conference;<sup>7</sup> the difficulties experienced by women,<sup>8</sup> people of color and Latinos/Latinas,<sup>9</sup> Asians,<sup>10</sup> Christians,<sup>11</sup> and gays and lesbians<sup>12</sup> within the law school teaching profession; the special circumstances faced by those in clinical legal education;<sup>13</sup> the experiences and contributions of law school deans;<sup>14</sup> and scholarship trends and the “disjunction” between the law schools and the practice of law.<sup>15</sup> Legal writing professors have written many other articles

7. See, e.g., Jon W. Bruce & Michael Swygert, *The Law Faculty Hiring Process*, 18 HOUS. L. REV. 215 (1981); Elyce H. Zenoff & Jerome A. Barron, *So You Want to Be a Law Professor?*, 13 J.L. & EDUC. 379 (1983); Elyce H. Zenoff & Jerome A. Barron, *So You Want to Hire a Law Professor?*, 33 J. LEGAL EDUC. 492 (1983) [hereinafter Zenoff & Barron, *Hiring a Law Professor*]; Don Zillman et al., *Unloaking Law School Hiring: A Recruit's Guide to the AALS Faculty Recruitment Conference*, 38 J. LEGAL EDUC. 345 (1988).

8. See, e.g., ABA COMMISSION ON WOMEN IN THE PROFESSION, UNFINISHED BUSINESS: OVERCOMING THE SISYPHUS FACTOR—A REPORT ON THE STATUS OF WOMEN IN THE LEGAL PROFESSION (1995); Marina Angel, *Women in Legal Education: What It's Like to Be Part of a Perpetual First Wave or the Case of the Disappearing Women*, 61 TEMP. L. REV. 799 (1988); Susan B. Apel, *Gender and Invisible Work: Musings of a Woman Law Professor*, 31 U.S.F. L. REV. 993 (1997); Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 TEMP. L. REV. 117 (1997); Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537 (1988); Pamela Edwards, *Teaching Legal Writing as Women's Work: Life on the Fringes of the Academy*, 4 CARDOZO WOMEN'S L.J. 75 (1997); Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333 (1996); Herma Hill Kay, *The Future of Women Law Professors*, 77 IOWA L. REV. 5 (1991).

9. See, e.g., Derrick Bell & Richard Delgado, *Minority Law Professors' Lives: The Bell-Delgado Survey*, 24 HARV. C.R.-C.L. L. REV. 349 (1989); Gabriel J. Chin & Denise C. Morgan, *Breaking Into the Academy: The 1996-97 Michigan Journal of Race and Law Guide for Aspiring Law Professors*, 1 MICH. J. RACE & L. 551 (1996); Charles R. Lawrence III, *Minority Hiring in AALS Law Schools: The Need for Voluntary Quotas*, 20 U.S.F. L. REV. 429 (1986).

10. See, e.g., Pat K. Chew, *Asian Americans in the Legal Academy: An Empirical and Narrative Profile*, 3 ASIAN L.J. 7 (1996).

11. See, e.g., Robert R. Cochran, Jr., *Christian Perspectives on Law and Legal Scholarship*, 47 J. LEGAL EDUC. 1 (1997).

12. See, e.g., William N. Eskridge, Jr., *Outsider-Insiders: The Academy of the Closet*, 71 CHI.-KENT L. REV. 977 (1996); Marc A. Fajer, *Authority, Credibility, and Pre-Understanding: A Defense of Outsider Narratives in Legal Scholarship*, 82 GEO. L.J. 1845 (1994); G. Kristian Miccio, *Closing My Eyes and Remembering Myself: Reflections of a Lesbian Law Professor*, 7 COLUM. J. GENDER & L. 167 (1997); Catherine P. Wells, *Symposium: Lesbians in the Law—Opening Remarks*, 5 S. CAL. REV. L. & WOMEN'S STUD. 7 (1995).

13. See, e.g., John S. Elson, *Why and How the Practicing Bar Must Rescue American Legal Education from the Misguided Priorities of American Legal Academia*, 64 TENN. L. REV. 1135 (1997); Robert F. Seibel, *Do Deans Discriminate?: An Examination of Lower Salaries Paid to Women Clinical Teachers*, 6 UCLA WOMEN'S L.J. 541 (1996); *Report of the Committee on the Future of the In-House Clinic*, 42 J. LEGAL EDUC. 508 (1992) [hereinafter *Committee Report*].

14. See, e.g., Paul D. Carrington, *Afterword: Why Deans Quit*, 1987 DUKE L.J. 342; R. Lawrence Dessem, *A Form Letter to the Dean*, 47 J. LEGAL EDUC. 118 (1997); Robert Kogod Goldman, *Some Reflections on an Acting Deanship*, 45 AM. U. L. REV. 997 (1996); Richard A. Matasar, *The MacCrat Report from the Dean's Perspective*, 1 CLINICAL L. REV. 457 (1994).

15. See, e.g., ABA SECTION OF LEGAL EDUC. & ADMISSION TO THE BAR, LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP (1992); Francis A. Allen, *Legal Scholarship: Present Status and Future Prospects*, 33 J. LEGAL

about legal writing programs, pedagogy, and teachers.<sup>16</sup> This Article tries to link those pieces about legal writing to the other scholarly articles about teaching within the law school academy, offering a comprehensive view of the possibilities of making one's career as a legal writing professor.

Over my fifteen years of teaching legal writing, which includes thirteen years of directing legal writing programs,<sup>17</sup> I found, to my

EDUC. 403 (1983); Harry T. Edwards, *Another "Postscript" to "The Growing Disjunction Between Legal Education and the Legal Profession,"* 69 WASH. L. REV. 561 (1994); Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession,* 91 MICH. L. REV. 34 (1992); Harry T. Edwards, *The Growing Disjunction Between Legal Education and the Legal Profession: A Postscript,* 91 MICH. L. REV. 2191 (1993); Harry T. Edwards, *The Role of Legal Education in Shaping the Profession,* 38 J. LEGAL EDUC. 285 (1988); Graham C. Lilly, *Law Schools Without Lawyers? Winds of Change in Legal Education,* 81 VA. L. REV. 1421 (1995); Patrick J. Schiltz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney,* 82 MINN. L. REV. 705 (1998).

16. For an extensive "bibliography of legal writing books, articles, and periodicals on legal writing programs and instruction," see SOURCEBOOK, *supra* note 1, at 149-74. For another bibliography, see THE POLITICS OF LEGAL WRITING: PROCEEDINGS OF A CONFERENCE FOR LEGAL RESEARCH AND WRITING PROGRAM DIRECTORS (Jan M. Levine et al. eds., 1996) [hereinafter POLITICS OF LEGAL WRITING].

The *Sourcebook on Legal Writing Programs* is an American Bar Association (ABA) publication that provides a superb overview of the issues facing a law school trying to structure a legal writing program. This book results from years of work by five of the nation's most-well respected legal writing professors (Ralph L. Brill, Susan L. Brody, Christina L. Kunz, Richard K. Neumann, Jr., and Marilyn R. Walter) under the auspices of the ABA's Committee on Communication Skills of the Section of Legal Education and Admissions to the Bar. See SOURCEBOOK, *supra* note 1. For a sampling of recent articles about legal writing, see Maureen Arrigo-Ward, *How to Please Most of the People Most of the Time: Directing (or Teaching in) a First-Year Legal Writing Program,* 29 VAL. U. L. REV. 557 (1995); Mary Kate Kearney & Mary Beth Beazley, *Teaching Students How to "Think Like Lawyers": Integrating Socratic Method with the Writing Process,* 64 TEMP. L. REV. 885 (1991); Levine, *supra* note 1; Levine, *supra* note 5; Carol McCrehan Parker, *Writing Throughout the Curriculum: Why Law Schools Need It and How to Achieve It,* 76 NEB. L. REV. 561 (1997); J. Christopher Rideout & Jill J. Ramsfield, *Legal Writing: A Revised View,* 69 WASH. L. REV. 35 (1994) [hereinafter Rideout & Ramsfield, *A Revised View*].

Extensive summaries of the history of legal writing programs and scholarship can be found in many articles, and the reader is directed to those compilations rather than consuming more space here. See, e.g., Jill J. Ramsfield & J. Christopher Rideout, *Scholarship in Legal Writing,* in POLITICS OF LEGAL WRITING, *supra*, at 75, 75-86; Rideout & Ramsfield, *A Revised View,* *supra*, at 36-61; Arrigo, *supra* note 8, at 123-42; Levine, *supra* note 5, at 530-34.

The last published national survey of legal writing teachers was conducted in 1994 under the sponsorship of the Legal Writing Institute (LWI). See Ramsfield, *supra* note 2. The latest two national surveys differ somewhat in form from Professor Ramsfield's prior surveys. In 1997 the Association of Legal Writing Directors (ALWD) conducted a detailed survey of directors. See ALWD, ALWD Survey (1997) (on file with author) [hereinafter ALWD Survey]. In 1998 ALWD and the LWI jointly conducted another survey. See ALWD/LWI, ALWD/LWI Survey (1998) (on file with author) [hereinafter ALWD/LWI Survey]. Copies of the two surveys and of future surveys may be obtained by contacting ALWD or LWI. See *infra* notes 148 and 151 for information on contacting these associations.

17. After teaching Legal Writing at Boston University as an adjunct professor for two years, I practiced law in Boston from 1978 to 1986. I left Boston for a position as a nontenure-track co-director of the University of Virginia's writing program, where I taught for six years. Virginia's program was composed of two nontenure-track co-directors who super-

dismay, that many people I interviewed, and far too many experienced teachers and directors whom I met, were all, at the start of their careers, probably as naive as I was when I started my career in the academy. This Article attempts to dispel some of that naiveté and to give people who want to make their careers as legal writing professors some critical information early enough to increase their chances of launching those careers well and of being happy and productive. Perhaps most important of all, this Article attempts to make a difference in the field of legal writing and in modern legal education. At least, I hope some will avoid the mistakes I have made.

## II. WHY TEACH LEGAL WRITING?

Of all the excellent professors in our law schools, many of the finest are to be found among those teaching legal writing. Being an effective writing teacher requires a person who is methodical and yet flexible; someone who is good at large- and small-scale teaching (ranging from the lecture hall to one-on-one conferences); someone who is willing to put in much hard work and many long hours for his or her students; and someone who cares about students and who loves lawyering and the profession. Legal writing professors cannot hide from their students, and they cannot wait for an end-of-semester examination to learn that what they thought they taught was neither learned nor understood by their students. Our assignments usually focus on topical issues and problems that appear in the headlines and evening news shows,<sup>18</sup> keeping us current and connected to the world of practicing lawyers. Teaching legal writing means intense contact with students, a chance to influence them as no one else does, and an opportunity for tremendous pedagogical and personal rewards.<sup>19</sup> People seek the opportunity to teach legal writ-

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vised 26 student teaching assistants. In 1992 I left to direct a new writing program at the University of Arkansas (Fayetteville) where I remained for four years. Since 1997 I have directed Temple University's writing program. The programs at Arkansas and Temple are composed of one director and four full-time legal writing professors who teach small sections of 1L students. Temple, a larger school than Arkansas, also employs six graduate fellows and five adjunct professors to teach other sections of legal writing. Temple also employs three adjunct professors who teach legal writing to students in the LL.M. program for foreign lawyers.

18. See, e.g., Jan M. Levine, *Designing Assignments for Teaching Legal Analysis, Research, and Writing*, PERSPECTIVES, Spring 1995, at 58-64. During the fall of 1998, the Temple writing program assignments addressed such topics as liability for transmission of HIV and the legal issues involved with wire-tapping private conversations.

19. See, e.g., Arrigo, *supra* note 8, at 151-55 (detailing the wide spectrum of skills taught, the vast amount of literature written about pedagogy and theory, and the individual nature of instruction); Maureen Arrigo-Ward, *LRW: Worthy of Academic Respect in Its Own Right*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 4 ("From the first day I set foot in the classroom I was in love."); Karin Mika, *Learn for a Living and Share It Too*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 3 ("I

ing because they like being lawyers, because they understand how much of our profession is inextricably linked to our being professional writers, and because they want to guide students into this wonderful world.<sup>20</sup>

Teaching legal writing may be the most demanding teaching job in the law school. Most professional legal writing professors have learned that the classroom setting is best used to address the doctrinal material and analysis at the heart of any decent research and writing assignment.<sup>21</sup> The classroom is a good setting for a discussion of the analytical structure, organization, and substance inherent in a memorandum or appellate brief. Yet the heart of our teaching is found in the written critiques of our students' writing and in the individual conferences we hold with our students to discuss their work and our reactions to their work product.<sup>22</sup> The teaching is one-on-one, and to an extent unparalleled by the traditional large-class Socratic dialog;<sup>23</sup> it offers professors the opportunity to get to know individual students well, to see what happens in their minds, to engage them in the process of learning, and to promote their intellectual growth. It also offers professors a chance to see if what they are doing as teachers actually works and to touch students and influence them—and the profession—in ways far different from that which takes place in most other classes.<sup>24</sup>

Yet, teaching legal writing is also exhausting and demanding work, almost always inadequately rewarded, and universally underappreciated by the members of the law school academy who are

have always believed the position of a Legal Writing instructor to be the greatest job in the world. There are few other places a person who loves knowledge can virtually learn for a living and be able to share knowledge with an audience that wants to be there. The greatest reward, I believe, is seeing your students become successful and, even without being thanked or acknowledged, know it was you who gave them their tools for success.”)

20. See John D. Feerick, *Writing Like a Lawyer*, 21 *FORDHAM URB. L.J.* 381, 381-82 (1994) (“Good legal writing is a virtual necessity for good lawyering. Without good legal writing, good lawyering is wasted, if not impossible. Good lawyering appreciates and is sensitive to the power of language to persuade or antagonize, facilitate or hinder, clarify or confuse, reveal or deceive, heal or hurt, inspire or demoralize.”); Rideout & Ramsfield, *A Revised View*, *supra* note 16, at 39 (“This Article begins with the premise that most law students will become professional writers: that is, they will make their living from writing, whether in practice or academia.”).

21. See *SOURCEBOOK*, *supra* note 1, at 39-52.

22. See *id.* at 1 (“The discipline of teaching legal writing skills has progressed to the point where experienced professionals agree on the parameters and common features that define successful programs teaching these skills in law school.”); see also Anne Enquist, *More Than Surviving Grading Papers: Insights From Experienced Legal Writing Teachers* (1994) (unpublished manuscript, on file with author).

23. See generally Kearney & Beazley, *supra* note 16.

24. Doctrinal professors and legal writing professors acknowledge this fundamental point. See, e.g., Feerick, *supra* note 20; Philip C. Kissam, *Thinking (By Writing) About Legal Writing*, 40 *VAND. L. REV.* 135 (1987); Parker, *supra* note 16; Rideout & Ramsfield, *A Revised View*, *supra* note 16.

not themselves law students. Many doctrinal professors and many law school deans have long believed that legal writing is not a specialized art or a true skill. They believe it is not something that needs to be taught in law school and that we cannot really teach it anyway. Many also believe that writing courses and professors are not worthy of full membership in the academy.<sup>25</sup> Ironically, this group of scholars, who champion the importance of their own research and writing, often fail to see the subject of legal writing, and those teaching it, as “real.”<sup>26</sup> To make matters even more complicated, most doctrinal professors do not understand the work of a legal writing program director, and if they do appreciate how much work the law school asks of a director, they do not comprehend why someone would be willing to shoulder the heavy administrative burdens.

Furthermore, legal writing may be a “pink ghetto,” for reasons both good and bad. Legal writing may attract women to the teaching

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25. See, e.g., Arrigo, *supra* note 8, at 155-72; Lisa Eichhorn, *Writing in the Legal Academy: A Dangerous Supplement?*, 40 ARIZ. L. REV. 105, 105 (1998) (using Jacques Derrida's notion of a “dangerous supplement” to deconstruct “an ancient, embedded hierarchy that favors speech over writing”); Rideout & Ramsfield, *A Revised View*, *supra* note 16, at 46-48.

The term currently in vogue among legal writing professors to describe a professor who does not teach legal writing is “doctrinal professor.” The term is a reaction to the belief held by many professors who do not teach legal writing that only they teach substantive law and that writing faculty only teach grammar and remedial writing. Professor Eichhorn spoke to both camps when she suggested:

Derridean philosophy would label the separation of speech and writing (and, by extension, of doctrine and writing) as a futile endeavor. Writing poses a “danger” to speech only because it is speech, in the same way that speech poses a danger to writing because it is writing. To Derrida, “speech as a signifier of thought, shares all the properties that we had associated with writing. Speech is merely a special case of a generalized idea of writing.” Legal writing and legal doctrine occupy a similar relation to each other. Each is necessary for the existence of the other. Those who argue for the devaluation of legal writing must therefore also argue that the devaluation of writing is consistent with the development of legal thought. Yet the argument for the devaluation of legal thought will always threaten the argument for the devaluation of writing, suggesting that division of the world into writing and doctrine is futile.

Eichhorn, *supra*, at 139 (footnotes omitted); see also Kearney & Beazley, *supra* note 16, at 885 (“Integrating Socratic methods with the writing process can make the legal writing course the most effective vehicle in the law school curriculum for teaching both analytical and written communication skills.”).

26. For example, one anonymous writing professor wrote:

After beating out more than 100 other applicants for the legal writing instructor position at my law school and after leaving my job as a respected associate at a nationally-known law firm, I was not prepared to be treated as an “untouchable” by the law school faculty.

I did not realize that writing instructors are not real people. The dean and faculty seem to go out of their way to denigrate and exclude us. We are not invited to faculty meetings, nor are we invited to lunch or other faculty social functions. Many of the faculty don't even bother to learn our names.

*Anonymous*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 6.

of legal writing for all the good reasons. One legal writing scholar has noted:

Pedagogically, the field is dynamic, for it concerns itself not only with substance, but also with process. Assisting a student to become competent in a basic practical skill requires drawing on multiple strategies and techniques. The instruction must be individually tailored for each student and it must blend the practical with the theoretical. In this regard, some theorists believe it may hold special appeal for women.<sup>27</sup>

Law schools, however, may appoint women to legal writing positions in disproportionate numbers for all the bad reasons—assigning the teaching positions that demand the most work and long hours of student contact to the people the school believes will “mother” their students, yet be incapable of producing scholarly work. There seems little doubt that the hiring of women into second-class status legal writing positions, jobs accompanied by low salaries and high workloads, is endemic at best, and at worst, is intentional discrimination. Many scholars have linked these issues of status and job security, particularly the law schools’ overall structuring of legal writing positions, to discrimination against women because women are disproportionately over-represented among the ranks of legal writing professors.<sup>28</sup>

Until recently, few legal writing professors stayed in the field for very long. Many schools simply limited the time one could remain in service. At others, schools have put in place overwhelming disincentives to stay with the jobs, such as second-class status, low salary, and high workload. Many legal writing professors were not geographically mobile for family reasons. Others lacked interest in making a career of teaching legal writing. Few legal writing professors moved into tenure-track positions of any kind.<sup>29</sup>

27. Arrigo, *supra* note 8, at 152.

28. See Chused, *supra* note 8, at 552. See generally Arrigo, *supra* note 8; Edwards, *supra* note 8; Farley, *supra* note 8, at 352-58; Ramsfield, *supra* note 2, at 19-20; see also Joyce E. McConnell, *A Feminist's Perspective on Liberal Reform of Legal Education*, 14 HARV. WOMEN'S L.J. 77 (1991); Mairi N. Morrison, *May it Please Whose Court?: How Moot Court Perpetuates Gender Bias in the "Real World" of Practice*, 6 UCLA WOMEN'S L.J. 49 (1995).

29. In 1988 Professor Chused wrote:

Contract status legal writing teachers leave their institutions at vastly higher rates than tenure track faculty. Three-quarters of them turn over and out of teaching. These positions create a track into “regular” teaching slots for a very small number of people, and to the extent this career path functions at all, it works better for men than for women. Just under one-fifth of the contract legal writing teachers left their institutions and found other legal education positions or obtained tenure track jobs without moving. Twelve of those moving to new jobs were men; only six were women. Ten of the twelve men obtained tenure track positions, one became a tenure track librarian, and the last found a legal writing position. Of the six women, only three obtained tenure track jobs, one

All these things are changing, however. Schools are now responding to the increased levels of experience and scholarly production by legal writing professors. Law schools are realizing the many pedagogical and administrative reasons why they should want to attract and retain qualified professors of legal writing<sup>30</sup> and are supporting their efforts to produce scholarship. The institutional resistance to long-term contracts for legal writing professors is fading, and more schools are appointing legal writing professors and directors to the tenure track.<sup>31</sup> Other schools are removing the contract

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became a contract status clinician, and two obtained new legal writing positions.

Thus, about twenty percent (11/53) of the male legal writing instructors found tenure track jobs, while only about six percent (3/47) of the women did.

Chused, *supra* note 8, at 552-53 (footnotes omitted); see also Edwards, *supra* note 8, at 95-97. The latest statistical analysis from the Association of American Law Schools (AALS) on new faculty hires reports that "the percentage of new lecturers and instructors who were women was significantly higher than for the other title groups." Richard A. White, *Association of American Law Schools Statistical Report on Law School Faculty and Candidates for Law Faculty Positions* (1996-97) (visited Mar. 11, 1999) <<http://www.aals.org/statistics/rpt9798w.html>>.

30. Cf. *infra* note 54.

31. See SOURCEBOOK, *supra* note 1, at 72-77; Levine, *supra* note 5, at 537. In 1995 I reported on a survey of full-time tenure-track and tenured legal writing teachers that I conducted from 1992 to 1994:

The available data show that 31 to 35 schools, or about 20 percent of all ABA-accredited schools, have specifically recruited legal writing professionals as tenure-track faculty, a number far larger than previously reported. I received detailed responses from 23 schools. [Arkansas at Fayetteville, Baltimore, Brooklyn, Dayton, Fordham, Hofstra, Howard, John Marshall, Mercer, Missouri at Kansas City, Montana, Northeastern, Northern Kentucky, Notre Dame, Oregon, Quinnipiac (formerly Bridgeport), Santa Clara, Seton Hall, Stetson, Thomas Cooley, Valparaiso, William Mitchell, and William and Mary] Some of the respondents were directors of "skills programs," which include such topics as pretrial techniques or negotiation training. [Baltimore, Northeastern, and William and Mary] Others taught at a school without a titled director. [Dayton, Stetson, Thomas Cooley, and Valparaiso] In addition to the 23 schools responding, I was able to identify 8 schools as having hired legal writing professionals into tenured or tenure-track positions [CUNY at Queens College, Chicago-Kent, Northwestern, Pace, Temple, Tennessee, Vermont, and Widener]; it is also probable that at least an additional 7 schools may fall in that group, so the actual number may be 38 or more schools.

*Id.*

Since writing that article several changes have taken place, but I have not conducted a formal follow-up survey. The number of schools with tenured or tenure-track legal writing directors and professors is still growing. The incumbent directors at Arizona State, Connecticut, Georgetown, Marquette, Lewis & Clark, Loyola (New Orleans), Samford, and Washington were converted to tenure-track appointments; the directors at Georgetown and Samford have also received tenure. I left Arkansas (Fayetteville) for Temple; I was replaced at Arkansas (Fayetteville) by another tenure-track director. I replaced a tenure-track director at Temple who had not been reappointed, and I am now tenured at Temple. The directors at Baltimore, Fordham, Howard, Mercer, Missouri at Kansas City, Tennessee, and Quinnipiac are now tenured. But the professors tenured as directors at Montana, Missouri at Kansas City, and Quinnipiac are no longer directing their schools' writing programs, and they have not been replaced by new tenure-track appointees. The director at Stetson who responded to the survey is now a tenure-track director at a new law school, Nevada-Las Vegas, and she was replaced at Stetson by another tenure-track director. The tenured director at John Marshall (Chicago) became an associate dean, and she was replaced by the

caps on time-in-service and are otherwise upgrading their legal writing faculty positions, short of making them tenure-track.<sup>32</sup> Some schools are also creating written standards for performance and procedures for evaluation, making explicit their heightened expectations of the faculty appointed to teach legal writing on or off the tenure track.<sup>33</sup> Nonetheless, the increasing professionalization of the field and the contract term limits in place at many schools have forced many experienced and skilled writing professors—those who want to remain in the profession but cannot stay at their current schools—to move from school to school, seeking and obtaining better opportunities and, thus, further promoting the development of the field.<sup>34</sup> I have been one of those “migrant” legal writing professors,

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former director of Widener (Harrisburg), who is a tenure-track appointee; all the writing professors at John Marshall, including an assistant director, are now either tenured or on the tenure track. All the writing professors at Arkansas (Little Rock) are eligible to apply for conversion to tenure-track faculty positions. Widener (Wilmington) has a tenure-track director, but Widener (Harrisburg) has an acting director who is not on the tenure track. The directors at New England and Loyola (New Orleans) are tenure-track appointees. Touro's director was tenure-track but has since resigned. Two new law schools, Roger Williams and Chapman, have been accredited by the ABA, and both have hired legal writing professors to teach legal writing as well as doctrinal courses. One of the Chapman professors was recently tenured, and the second Chapman professor is scheduled for tenure consideration in the spring of 1999. At least two additional schools may have tenure-track writing teachers, but I cannot confirm the numbers at this time. It seems safe to say, however, that approximately 40 of the 180 ABA-accredited law schools have on their faculties tenured or tenure-track legal writing professionals who did not come to their careers in legal writing after being tenured as “doctrinal” law professors.

Of course, the number of tenured faculty who serve as directors is greater than I reported. See Ramsfield, *supra* note 2, at 12-13 (reporting that 83% of all law schools responding to the survey had directors and that 42% of the directors were on the tenure track). My survey, however, was targeted at people who were hired as legal writing professors and intended to make their careers in legal writing. The other directors with tenure received their tenure prior to assuming the administrative responsibilities for the writing program; many may not actually teach legal writing.

32. See Ramsfield, *supra* note 2, at 14 (stating that “eighteen percent [of legal writing professors] stay over ten years. Seventy-four percent of the schools responding do not impose a limit on the number of years legal writing faculty can stay.”). A directorship that is not on a tenure track, however, may be problematic for all in the writing program because the director may be a manager without power, a job which makes the director frustrated and causes resentment among the other teachers. See Arrigo, *supra* note 8, at 180-84.

33. See *Evaluation Standards for Long-Term Contract Legal Writing Faculty*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), May 1995, at 3, 3-8 (reprinting the standards from Boston College and the University of Arkansas (Fayetteville)) [hereinafter *Evaluation Standards*].

Another phenomenon is that faculty standards for evaluation and promotion of legal writing teachers are looking ever more like traditional faculty standards, and the expectation of producing scholarship is becoming more of a norm. ALWD has collected copies of similar standards from about ten other schools, and the documents are available from ALWD. For information on how to contact ALWD, see *infra* note 151.

34. For example, Temple's program changed in 1997. The school hired me as the new director, on a tenure track. I had taught legal writing at three other law schools. The school also hired four full-time legal writing professors into new nontenure-track positions (while retaining six graduate fellows and approximately five of twenty-five adjuncts, who had constituted the teaching corps of the program in the past). Three of the four full-time profes-

although I have now found a permanent home. The story of my travels may shed some light on why so many legal writing professors and directors have endured, even prospered, despite the history of negative perceptions held about them and the courses they teach.<sup>35</sup>

I never planned to teach legal writing. Like many of my colleagues who are now teaching writing at the law school level, it just happened. I attended a large state university at the beginning of an era of few curricular requirements, and I could easily avoid the difficult task of writing.<sup>36</sup> As was true for many other students in the late 1970s, I went to law school for no particular reason at all, except perhaps because it allowed me to be trained to do something that

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sors had taught legal writing full-time at other law schools for many years, and the fourth had extensive experience as an adjunct professor of legal writing at another law school. The five new professors had, as a group, 29 years of teaching experience.

This increased experience level, faculty movement from school to school, and resulting pedagogical cross-pollination, is not unique. A neighboring Pennsylvania law school, Villanova, is also based on full-time writing faculty. Several of the writing professors at Villanova learned of new developments in legal writing, in part by attending national conferences sponsored by the LWI. They implemented significant changes in their program and wrote an article about their efforts. See Jo Anne Durako et al., *From Product to Process: Evolution of a Legal Writing Program*, 58 U. PITT. L. REV. 719, 723-25 (1997). Ironically, many of the authors of that article had to leave Villanova because of time limits on their contracts; one is directing a legal writing program at Rutgers-Camden (yet another Philadelphia-area school newly reconstituted with full-time writing professors in place of adjuncts), one is teaching with me at Temple, and a third is teaching in a new legal writing program at Michigan, in which full-time professors replaced upper-division student instructors.

As a result of this growth in mobile and experienced professionals, the screening of those applicants has become more detailed and careful and often involves contact between the two schools' directors, much like the private reference calls made between the deans when schools consider a faculty member for a visit or a possible lateral hire. Whether it is appropriate, most directors interviewing an experienced candidate are going to make inquiries and, ultimately, hiring decisions, based on reports about a candidate's collegiality within a program in which all the teachers share a high level of mutual interdependence. Well-behaved legal writing colleagues are more likely to be hired than those who challenge authority and cannot get along with the other teachers (and the director).

Someone seeking to move to another school must realize that he or she is going to have to make some concessions during the interview process and later to the expectations and practices of the professors at the new school. While all experienced writing teachers usually share some hard-won insights about teaching and the ways to structure a program, a teacher making a lateral move must understand that the first year or two will require learning new insights from new colleagues and the careful sharing of his or her own ideas.

35. The balance of this section originally appeared, in somewhat different form, in Jan M. Levine, *Words from the Podium*, SCRIVENER (Scribes: The American Society of Writers on Legal Subjects, Fayetteville, Ark.), Spring 1997, at 2-3. For a more introspective narrative, see Philip N. Meyer, *Confessions of a Legal Writing Instructor*, 46 J. LEGAL EDUC. 27, 33-42 (1996); and Philip Meyer, *The Exploding Frog: A Legal Writing Teacher's Dream*, 20 LEGAL STUD. F. 137 (1996).

36. I still did well academically, as I could maximize the return on grades and minimize my workload by taking courses that relied on short-answer or multiple choice questions. I now find similar short-term cost-benefit analyses troubling when I deal with the 1L law students who find themselves in my classes; I admit that I am not sympathetic to students who want to get away with what I got away with.

was prestigious and allegedly lucrative while I deferred the difficult task of figuring out what I wanted to do when I grew up.

As have many law students then and now, I found law school quite strange and frustrating; it was not until years later that I started to understand why.<sup>37</sup> Some of the reasons I remain a legal writing professor probably are rooted in my reactions to my own law school experience. In many ways I survived by treating my student years as an ethnographic study based on what my sociology and anthropology professors in college described as “participant observation.” Now I know that one reason I did not care about the material under study was the manner in which successive generations of redactor lawyers, judges, and law professors had bleached the narrative from the heavily edited appellate opinions filling my casebooks.<sup>38</sup> The opinions were written in a manner sure to confuse readers unfamiliar with their antiquarian style and unaware of the hidden histories of the societies and cultures in which these long-dead disputes arose and were resolved. Furthermore, virtually no law professor in a doctrinal course ever asked me to learn by writing. Few professors ever insisted that I write, and none closely read my work, offered detailed reactions to it, or guided my efforts at rewriting.

A well-meaning, but ultimately ineffective, adjunct professor taught my 1L legal writing class. It was an experience in treasure hunts for the hidden nuggets of fools’ gold and crystals of cubic zirconia buried in the library’s shelves. She even spent class time reading out loud pages from *A Uniform System of Citation*—blessedly small at the time, it would fit in the back pocket of your jeans—as an exhortation to cite better.<sup>39</sup> The topics of the assigned memoranda were incredibly boring, guaranteed to induce a flat-line EEG in the reader (and the writer). Nevertheless, I felt the advocacy part of the course had something going for it.<sup>40</sup>

Then I was lucky enough for two things to happen. First, I obtained a summer clerkship in a Boston law firm,<sup>41</sup> and, of course, I spent the summer doing research and writing memos about real

37. Reading Stevens’ *Law School: Legal Education in America* was one of those clarifying experiences. STEVENS, *supra* note 5. The other major key to understanding came from reading Paul T. Wangerin, *Objective, Multiplistic, and Relative Truth in Developmental Psychology and Legal Education*, 62 TUL. L. REV. 1237 (1988). Alas, I read both of these works ten years too late to gain any benefit during my law student days.

38. See Paul Bateman, *Toward Diversity in Teaching Methods in Law Schools: Five Suggestions from the Back Row*, 17 QUINNIPIAC L. REV. 397, 409-10 (1997).

39. In my first year of law school, we used A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds., 10th ed. 1975).

40. As is common in most law schools, our spring semester involved work on an appellate brief and the delivery of oral arguments before a panel of alumni and upper-division students who played the role of appellate judges.

41. Kaye, Fialkow, Richmond & Rothstein, of Boston, Massachusetts.

problems. I learned that how I wrote, the subtext and voice, was as important as what I thought about the law; for example, surviving the experience of telling a lawyer, who was also a client, that he made a mistake gave me quite an incentive for artful drafting. I realized those practicing lawyers with whom I worked were often quite different from many of my professors. They were often wonderful communicators who depended, above all else, on their use of pens and legal pads (this was before word-processing) for their daily tasks. I saw first-hand how a good lawyer could achieve a result in a dispute that was not objectively predictable from the applicable precedents and rules. Nonetheless, the business of law offices and the world of corporate and commercial law were not things that resonated within me. I resolved not to join a law firm; I wanted to do something that “mattered.” After all, I was a child of the 1960s.

In my second and third years of law school, only a few courses broke through the anomie promoted by the upper-division curriculum. I enjoyed my upper-division family law and health law courses; I also liked the courses rooted in administrative and statutory materials. These courses happened to be taught by caring and excellent teachers.<sup>42</sup>

My second lucky break came during the summer after my second year of law school, when I worked for a professor who had joint appointments to the university’s law school and school of public health and who directed a special interdisciplinary center.<sup>43</sup> I had a rare opportunity to work with some people who made a difference, who did something of national significance with the law. They also loved to write, and they were good at it.

After graduation, I continued to work at that center, and I was stunned at the quality of the writing I read as I pored over all sorts of legal documents prepared across the nation in one developing and fast-growing substantive area. It would be more accurate to say that the poor quality of much of the writing was stunning. I read trial pleadings and motions, appellate briefs, judicial opinions, regulations and legislation, articles, books, and more, and it was all in one area of law. I learned that the best writing was found in the most effective legal work; when the writer told a good tale, and the reader’s comprehension was effortless, then things would happen. I began to write in the area myself and found that the key to understanding

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42. I have to acknowledge my debt to Professor Frances H. Miller of Boston University School of Law and to Professor Colin A. Diver, now Dean of the University of Pennsylvania School of Law.

43. Professor George J. Annas, who was the Director of the Boston University Center for Law & Health Sciences at that time, is now Edward R. Utley Professor and Chair of the Health Law Department, and Founder of the Law, Medicine, and Ethics Program, Boston University Schools of Public Health and Medicine.

was writing, followed by perpetual rewriting. Although I did not realize the benefits until much later in my career, I was working with people who trained trainers, who had to write all sorts of material, including grant proposals to keep their programs funded. They taught me about how a writer must understand the audience, about the power of simplicity and clarity, and about the critical nature of structure and organization for good analytical writing.<sup>44</sup>

Almost on a whim, I applied to teach legal writing at my school as an adjunct professor working with the program's new director.<sup>45</sup> In that first faculty appointment I fell in love with teaching; I saw how my teaching and work as a lawyer was interrelated, and I thought I saw something happening with my students that never happened in my own 1L section. Over the next two years, my teaching took place within what I later learned was considered—for the time—an integrated course, in which the writing and research were inextricably intertwined. I kept a substantive connection among all the assignments in my class, and we worked with stories that involved people, heartaches, legal imprecision, and social wrongs. For the assignments, I tried to avoid soporific tales and cold abstract theory and doctrine. The projects addressed form and style, grammar and citation, but we approached all within the context of the overall product, not as separate topics. My students taught me what worked and showed me how to teach. I owe them a good deal.

Federal financial support for the law reform efforts of the university's interdisciplinary center dried up during the Reagan era, and I left the university for the first of several positions in state government. As a lawyer for the Commonwealth of Massachusetts, I learned how to write under pressure. I discovered just how much power lawyers held as mediators among the general populace, politicians, clinicians, courts, and bureaucrats.<sup>46</sup> I learned that an effective lawyer's greatest strength may be the ability to translate across these diverse discourse communities and create the documentary record used by all groups. My work involved writing regulations and statutes, drafting pleadings, writing every kind of letter imaginable, preparing memos of all sorts, writing news releases, drafting con-

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44. I must thank Henry A. Beyer, of the Boston University Center for Law and Health Sciences, and the late Howard Segars.

45. Judith Ashton is now a managing director of the Boston law firm of Davis, Malm & D'Agostine, P.C. She neither hired nor reappointed the adjunct who taught me.

46. Although I worked with many attorneys in the two agencies, I have to acknowledge my mentors for much of my career in state government: Maria Z. Mossaides, who is now working for the Massachusetts Supreme Judicial Court, and Peter M. Gately, now in private practice in Franklin, Massachusetts. I must also thank Judge Paul P. Heffernan, of the Somerville District Court, and Judge Marie O. Jackson, of the Cambridge District Court; both were wonderful jurists who combined compassion for those before them with a keen understanding of how to make government work.

tracts, and crafting all the other varied items that make up a lawyer's stock in trade.

Eventually I became a trial lawyer for another state agency and learned that a lawyer willing to invest the time and energy that is needed to write well would usually be successful. In all my lawyering, I benefited from my teaching; I could never have become a trial lawyer had I not first faced the toughest audience in the world: twenty-four bright 1L students. My teaching experience proved to me the truth of the old adage that one learns best when teaching another person. Teaching others to write showed me how to write better myself; teaching problem solving was the key to my own mastery of a lawyer's problem-solving behavior. I loved being a lawyer, but my ability to be a lawyer was linked to my ability to be a teacher. Eventually, the opportunity arose to go into teaching full-time, and I made the leap.<sup>47</sup> Although the path has not been without setbacks and disappointments,<sup>48</sup> it has been rewarding and fruitful.<sup>49</sup>

From time to time, I miss my trial work and "real world" lawyering, and over the past twelve years of full-time teaching, I have surely had a love-hate relationship with those stacks of memos and briefs.<sup>50</sup> On the other hand, I believe that I found a chance to do something important which combines the best of the varied roles of a careful writer, a lawyer, and a teacher. My students usually pursue at least two of those roles in their own careers, and I have been lucky enough to see some become accomplished at all three.<sup>51</sup> Legal writing, my chosen field, has experienced an amazing growth and professionalization during the decade I have been teaching, and the phe-

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47. This jump was to the University of Virginia, where I spent the next six years in a nontenure-track position as co-director of their writing program.

48. Of course, there's nothing I'm willing to put into this footnote!

49. Lest my current dean read this and not be inclined to act favorably when considering my salary for next year, I have to say it could be somewhat more rewarding.

50. The hours of direct student contact and the number of pages of student writing that a legal writing professor must read and critique every year are the two most demanding parts about the job. Every single article about legal writing programs and faculty—regardless of any other point the authors make—reports on the overwhelming physical and mental demands of the teaching involved, but this has only recently been quantified. See Ramsfield, *supra* note 2, at 8 n.64 (reporting that the average teaching load among legal writing professors may be 20 hours per week of "face-to-face" contact with students and that the average class size is between 36 and 50 students. In an average year, "legal writing professors are likely to spend 56 hours in class, 338 hours reading papers, and 180 hours in conferences," not including "class preparation, office hours, or drop-in questions"); see also ALWD/LWI Survey, *supra* note 16, at 30, 57 (reporting that directors read an average of 1583 pages per term and a maximum of 5000 pages; and reporting for other legal writing professors an average of 1642 pages per term and a maximum of 5000 pages).

51. Two of my former students are teaching legal writing as full-time legal writing professors; several more have taught legal writing as adjuncts; and two more are teaching legal writing as part of their teaching responsibilities as doctrinal faculty.

nomenal intellectual growth of the field continues to accelerate.<sup>52</sup> It may be the only field in legal education that permits a professor to touch on virtually any other field of law or jurisprudence, from rarefied theory to blackletter law, and leave a mark there and on one's students.

As a director of a writing program, I have also had the chance to have more than a solitary teacher's effect on three law schools, and perhaps on legal education nationally. Being a director can be a lonely job, however, because no one at the school does what you do. The dean's job comes closest, but the dean has far more power and authority (at most law schools, the director and other legal writing professors do not have the protection of tenure, with consequent job security and guarantees of academic freedom). Nonetheless, a growing and vital community of friends and colleagues organized in new and vibrant organizations, the Legal Writing Institute and the Association of Legal Writing Directors,<sup>53</sup> are now addressing and even overcoming the longstanding challenges faced by legal writing professors and directors: low status, low salaries, and high workload. The American Bar Association *Standards for Approval of Law Schools* have, for the first time, given grudging recognition to the importance of legal writing professionals.<sup>54</sup> My involvement in those

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52. A 1991 bibliography of legal writing scholarship listed 62 books and 207 articles that were written between 1980 and 1991. See George D. Gopen & Kary D. Smout, *Legal Writing: A Bibliography*, 1 J. LEGAL WRITING 93, 93 (1991). In 1997, in a newer legal writing bibliography, the *Sourcebook on Legal Writing Programs* listed 74 books and 77 articles dated 1991 or later. See SOURCEBOOK, *supra* note 1, at 149-74. While one might quibble over the categorization of some articles in any two bibliographies prepared by different authors, it is clear to anyone that the amount of scholarly activity in the field of legal writing is growing exponentially; those quibbling may be silenced by the observation that many of the articles and books are evidence of both the breadth of the field and the wide range of scholars (traditional law professors and writing professors) finding the field fertile ground in which to write.

53. The LWI held its first national conference in 1986. Approximately 300 of the more than 1000 Institute members attend each three-day biennial conference. See *infra* note 148 for information on contacting the LWI. The ALWD is even newer, growing out of a national conference held in San Diego in 1995. The organization has over 160 members and will hold its third national conference in Boston during the summer of 1999. For information on contacting the ALWD, see *infra* note 151.

54. See ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, STANDARDS FOR APPROVAL OF LAW SCHOOLS (1998) [hereinafter STANDARDS]; ABA Section of Legal Education and Admissions to the Bar, *Standards for Approval of Law Schools and Interpretations* (visited May 26, 1999) <<http://www.abanet.org/legaled/standards.html#STANDARDS>>; see also Ralph L. Brill, *ABA Adopts New Standards Relating to Legal Research and Writing*, 5 PERSPECTIVES 71 (1997). These newly revised accreditation standards include significant changes challenging law schools to pay greater heed, and devote more resources, to skills training and to legal writing programs and teachers. The Preamble to the new ABA accreditation standards now requires a law school to "provide an educational program that ensures that its graduates . . . receive basic education through a curriculum that develops . . . skills of legal analysis, reasoning, and problem solving; oral and written communication; [and] legal research." STANDARDS, *supra*. Standard 302 states that this educational program must "provide its graduates with basic competence in legal analy-

organizations also lets me work closely with colleagues at my school and at other schools who share many of the same interests, and I have close company in the often-lonely world of post-secondary education.

Would you like to join us?

### III. TYPES OF APPOINTMENTS

#### A. *Full-Time Faculty Appointments*

The number of positions available in law school teaching is rather small. In 1997 the Association of American Law Schools (AALS) listed only 8543 faculty members,<sup>55</sup> covering the 180 law schools.<sup>56</sup> For 1997-98, the AALS listed only 284 new faculty members.<sup>57</sup>

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sis and reasoning, legal research, problem solving, and oral and written communication . . . [and] adequate opportunities for instruction in professional skills." *Id.* Standard 405 requires that "law schools employing full-time legal writing instructors or directors shall provide conditions sufficient to attract well qualified legal writing instructors or directors." *Id.* Finally, under the Interpretation to Standard 402-1, legal writing instructors not on a tenure track who teach a full load are considered seven-tenths of a regular tenure-track faculty member when calculating the school's student/faculty ratio. *See id.* My own dean has pointed out that although this fraction may be less than that of a tenured professor, legal writing teachers are, ironically, now seen as more valuable than a law school dean, who is considered only half a person by the ABA.

Efforts continue to amend further the accreditation standards to improve the quality of legal writing instruction and the conditions under which legal writing professors are employed. In 1998 the Standards Review Committee of the American Bar Association's Section of Legal Education and Admission to the Bar began a "reliability and validity study" of the *Standards for Approval of Law Schools*, with the goal of proposing a set of amendments for adoption in the early summer of 1999. In January 1999, the ABA's Communications Skills Committee, which is charged with addressing legal research and writing, made three recommendations for amending the current standards: (1) Standard 302(a)(3) should be amended to require law schools to offer enough instruction to satisfy student demand in the drafting of contracts and other documents typical of the practice of law; (2) Standard 403(b) should be amended to require that students receive instruction in required courses from professionals, rather than from other students; and (3) Standard 405(c) should be amended to require schools to provide job security for legal writing directors and teachers, paralleling the protections now given to clinical faculty. *See Memorandum from the Communications Skills Committee, Section of Legal Education and Admissions to the Bar, to the Standards Review Committee, Section of Legal Education and Admissions to the Bar (January 12, 1999) (on file with author), reprinted in Words from the Podium, SCRIVENER (Scribes: The American Society of Writers on Legal Subjects, Fayetteville, Ark.), Winter 1999, at 3.*

As of March 1999, the Standards Review Committee incorporated parts of the proposed changes to Standard 405(c) into their draft. For a draft of the revised standards, see ABA Section of Legal Education and Admissions to the Bar, *Proposed Changes to Chapters 3 and 4* (visited Mar. 10, 1999) <<http://www.abanet.org/legaled/proposed.html#Chapter>>.

55. *See White, supra* note 29.

56. *See id.*; *see also* ABA SECTION OF LEGAL EDUCATION AND ADMISSIONS TO THE BAR, CONSULTANT ON LEGAL EDUCATION TO THE ABA: ANNUAL REPORT 17 (1996-97).

57. The 284 positions reported by the AALS do not include assistant and associate deans or the faculty at the Judge Advocate General's School. However, the statistical reports posted on the AALS Web site do not explain which of the positions were tenure-track or nontenure-track. It is likely that most of the new positions identified at the rank of assistant professor and above are probably tenure-track positions. The reports of law schools to

Those new to the realities of legal education should realize the range of teaching positions that exist in our law schools. When we think of a "law professor," most think only of the traditional tenured or tenure-track faculty who teach so-called "doctrinal" or "substantive" law courses,<sup>58</sup> not the "other" faculty who also work in the law school.

Law schools expect a traditional doctrinal professor to be in residence during the nine months of the year that make up the academic year, and they expect that a professor must carry a specified classroom teaching load, perhaps two courses per semester or five per year. A tenure-track or tenured professor produces scholarship and serves the law school and greater community through law school or university faculty committee work, involvement in national or state organizations, and other activities. The school may give the professor additional financial support by way of summer research grants or pay for extra teaching during the summer months. Once awarded tenure, a professor has an expectation of continued employment and has achieved job security that is transferable to other schools, along with a standard national retirement scheme.<sup>59</sup> A tenured professor also has an expectation of academic freedom and an ability to voice his or her opinion without consequent sanctions.<sup>60</sup>

Three traditional entry points lead to tenure-track teaching jobs. The first is the informal network that is most active in the so-called elite law schools. These schools seek out potential faculty members from other elite schools, usually from among the law review editors who have secured prestigious clerking jobs in the federal appellate courts.<sup>61</sup> Their former professors may advance these candidates, or the appellate judges for whom the candidates are clerking may take similar steps.

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the AALS of new nontenure-track hires have historically been spotty at best, with many schools not reporting legal writing faculty to the AALS or listing them in the Directory, particularly for their first year of work, although this situation appears to be improving. So it is possible that the positions reported as filled includes mostly tenure-track hires and only a portion of the nontenure-track legal writing and clinical hires made during the year. These off-tenure-track legal writing appointments are probably included in Table 3A of the AALS report among the 76 "Lecturers and Instructors," 65 "Visiting Profs (at any rank)," and 66 "Asst. Professors." See White, *supra* note 29.

58. See Parker, *supra* note 16, at 561.

59. The Teachers Insurance and Annuity Association and College Retirement Equities Fund (TIAA/CREF) is the oldest national retirement annuity system for college and university professors, but plans offered by several other national investment firms may be offered by law schools as competing retirement options for full-time faculty members' investments.

60. Many recent articles offer an overview of issues concerning academic freedom. See, e.g., Burton M. Leiser, *Threats to Academic Freedom and Tenure*, 15 PACE L. REV. 15 (1994); Michael A. Olivas, *Reflections on Professorial Academic Freedom: Second Thoughts on the Third "Essential Freedom"*, 45 STAN. L. REV. 1835 (1993). For the official statement of the ABA, the agency accrediting law schools, see STANDARDS, *supra* note 54, app. 1.

61. See Borthwick & Schau, *supra* note 5, at 214-17.

Although some professors come directly out of this small group, most candidates began their path to a tenure-track position by starting at the most usual entry point: "the Meatmarket."<sup>62</sup> That off-putting name is the common title of the Association of American Law Schools' Faculty Recruitment Conference, a yearly event held in Washington, D.C., at one of the gigantic convention hotels. Others have described this process well, so I will only briefly summarize it here.<sup>63</sup> The AALS, which is an organization of law schools (i.e., employers) collects standardized résumés from about a thousand prospective professors,<sup>64</sup> distributes them to all member law schools, and invites the schools to send their hiring committees to one place, for one extended weekend, to conduct half-hour screening interviews during three days in late October or early November. The efficiencies of this scheme for the candidates and schools are obvious, but the process is grueling and loaded with tension (primarily, but not exclusively, for the candidates).

At each law school at the start of the fall semester, about three months before the Meatmarket, the members of faculty hiring committees pore over the résumés sent to them by the AALS in a document titled "The Faculty Appointments Register." The committee members also may read over separate mailings from the candidates or references.<sup>65</sup> A committee contacts some candidates and arranges for short interviews at the conference. Much like a professional sports team participating in a league-wide draft of college athletes, a school may be searching for someone to fill a particular (curricular) position, or may be looking for "the best player available." Some schools may have no openings at all but may hold interviews "just in case" or to "maintain a presence."

Sometime between November and March, after the Meatmarket interviews are over and after the committees make additional telephone calls to the candidates' references, each school may invite a few selected candidates to the school for an on-site multiple day visit (the "call-back"). This interview includes many individual and group

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62. See Zillman et al., *supra* note 7, at 345-47.

63. See *id.* at 345-57. In 1998, for the first time, the AALS arranged a separate "break-out session" during the first evening of the Meatmarket, following the plenary orientation meeting, during which candidates interested in legal writing teaching positions were able to meet with three legal writing directors to talk about the process and their special concerns.

64. AALS *Faculty Recruitment Services* provides a collection of one-page biographical registration forms that are used by AALS member schools. The registration form is not a complete résumé. See *Faculty Appointments Register* (visited Feb. 11, 1999) <<http://www.aals.org/aalsfrs.html#1>>.

The AALS reported that there were 958 candidates registered in 1996. See White, *supra* note 29.

65. For excellent general advice about the AALS standard résumé, see Zillman et al., *supra* note 7, at 347-49.

interviews, a presentation to the gathered faculty, and several social gatherings. A survivor of this grueling test may get a coveted offer to join one or more law school faculties.<sup>66</sup>

Once given a faculty appointment, the new teacher's path to tenure (hopefully) begins. Schools commonly give new appointees three-year contracts and conduct yearly reviews focusing on progress toward tenure. If progress is acceptable, then the faculty member will receive another multi-year appointment. Schools usually award tenure in the sixth or seventh year of a professor's teaching, and promotion may take place before or after tenure.<sup>67</sup>

Most schools, however, employ other full-time and part-time faculty members off the tenure track. Their status and employment packages may be quite different. These teachers may be on separate tenure tracks; their positions may be full-time but not tenurable; the contracts may be year to year and may also be limited in duration; and the teachers may not have any possibility of a retirement program actually vesting. The teachers may be students in a graduate program at the law school, or they may be part-time adjunct faculty.<sup>68</sup>

Some schools may have different "tracks" within the tenure-track and tenured faculty. A law school may have both a "traditional" track, in which the professors teach doctrinal courses, and a "clinical" or "skills" track, in which the professors have responsibility for operation of the school's clinics, for legal writing, or for other skills courses. At some schools, a dual track scheme is a response to specific requirements in the *ABA Standards for Approval of Law Schools* that law schools should afford full-time clinical faculty job

66. The AALS Statistical Analysis for 1997-98, see White, *supra* note 29, reports the overall success rate of persons listed in the Faculty Appointments Register, using the figure of 284 new faculty listed in the Directory for 1997-98:

The numbers of successful candidates . . . represent those Faculty Appointments Register candidates from each of the five years who were listed in the following year's Directory of Law Teachers. One hundred forty-four (12.0%) of the 1200 Register candidates in 1994-95 were listed as new faculty in the 1995-96 Directory. This was the highest candidate success rate since 1991 (not shown) when 12.9 percent of the 1990-91 candidates were successful. The success rate has dropped in the last two years; 105 (9.8%) of the 1995-96 candidates and 69 (7.2%) of the 1996-97 candidates were listed in the following year's Directory. The overall success rate for the five years is 9.9 percent.

*Id.* What is not clear, however, is what percentage of those "successes" are appointments on the tenure track, and which of the new faculty listed are teaching legal writing or clinical courses off the tenure track. See *supra* note 57.

67. In 1992 the AALS reported that "during the period 1979-89, tenure was granted to 69.9 percent of those eligible for consideration." *Report of the AALS Special Committee on Tenure and the Tenuring Process*, 42 J. LEGAL EDUC. 477, 485 (1992).

68. The multiple variations within the ranks of legal writing teachers are detailed in the SOURCEBOOK, *supra* note 1, at 59-85; see also Ramsfield, *supra* note 2, at 64; ALWD Survey, *supra* note 16, at 6.

security and a role in faculty governance if they are not on an undifferentiated tenure track.<sup>69</sup> At a few schools, legal writing professors may be on the clinical tenure track,<sup>70</sup> or the school may have a third parallel track just for the writing faculty.<sup>71</sup> Most schools that created tenure tracks for legal writing professors, however, do not differentiate tenured and tenure-track legal writing professors from the other faculty in any way; the grant of tenure is undifferentiated.<sup>72</sup>

Other full-time positions available at law schools may be nontenure-track positions, where professors are contractual employees without the possibility of tenure. Many legal writing teaching positions are of this type, and many clinical professors are in similar positions. As of 1994, about sixty-three percent of ABA-accredited law schools had more than five, full-time, nontenure-track writing faculty members, and the number is growing.<sup>73</sup> The contracts for these positions may be for a fixed term of years, perhaps renewable after a review (and at the school's option). At some schools the contracts automatically renew unless the school acts affirmatively to terminate them. Some positions may be renewable indefinitely, but the professors' contracts may contain limits on "time in service," such as a seven-year cap.<sup>74</sup>

The expectations of the school, and the responsibilities of this category of faculty members, run the gamut. At some law schools, the writing professors are not encouraged to produce scholarship, and the school does not support writing by giving grants or by providing temporary relief from teaching. At other schools, scholarship is expected and supported, and the scholarship may be directed at the professor's own area of expertise: legal writing.<sup>75</sup> We cannot realistically view a nontenure-track legal writing faculty appointment as a "back door" into a tenure-track position teaching doctrinal courses, either at the host school or at another, regardless of the professor's abilities or actions.<sup>76</sup>

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69. STANDARDS, *supra* note 54, Standard 405(c).

70. *See Committee Report, supra* note 13, at 536-46.

71. *See id.* at 555-57.

72. *See supra* note 31 and accompanying text.

73. *See Ramsfield, supra* note 2, at 3; ALWD Survey, *supra* note 16, at 5-6 (determining that of the 90 schools responding to the survey, 41 used full-time teachers exclusively, and of the 33 that were hybrid programs using teachers of many types, at least 19 used full-time teachers of some status).

74. *See Ramsfield, supra* note 2, at 14.

75. *See SOURCEBOOK, supra* note 1, at 62-63 (regarding tenure-track teachers); *id.* at 66-67 (regarding nontenure-track, full-time teachers); Levine, *supra* note 5, at 544-45 (regarding tenure-track directors); *Evaluation Standards, supra* note 33 (regarding nontenure-track, full-time teachers).

76. *See infra* Part III.B.

Clinical faculty members and legal writing professors are likely to have far greater demands placed on them for teaching. Typically, these skills-based courses result in far more student-contact hours for the teacher. Legal writing professors must read and comment on many student papers.<sup>77</sup> Clinicians may have a yearlong caseload. The traditional faculty may not have as great an actual teaching load, despite the greater credit hours assigned to the classes they teach.

While many legal writing professors spend most of the summer months revising old problems or creating new problems to assign to their students, doctrinal faculty usually have an unencumbered summer in which to write. Many schools accordingly modify their expectations, if any, of a legal writing professor's scholarship and service to reflect the labor-intensive demands of teaching legal writing.

### B. Visitorships

The one entry point not usually open to legal writing professors of any status is the "look-see" lateral move of a tenure-track or tenured professor from one school to another. A law school may want to hire an established doctrinal professor for a particular opening at the school and may make discrete inquiries of a noted scholar or leader to learn if the professor is interested in moving. Typically, law schools "test out" a potential hire by inviting the professor to visit for a semester, a temporary arrangement that usually involves teaching and writing, but little or no local service. Except for people with established national reputations,<sup>78</sup> visitorships are usually a way in which a young scholar can determine whether another school is interested in him or her while simultaneously trying to raise the "permanent" school's appreciation of the absent professor's worth. Indeed, at some elite schools, a visit elsewhere may be encouraged for the not-yet-tenured or for the rising stars.

Many law schools easily do without an absent doctrinal professor's courses for a semester or even a year, or arrange for someone on the faculty or an adjunct to pick up one or more of the courses. For legal writing professors, however, the nontenure-track status and year-to-year nature of most of their appointments preclude visiting another school without losing the first appointment. Because of the labor-intensive nature of a legal writing course, the interlocking nature of the different sections of the course, the wide variation among

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77. See Levine, *supra* note 5, at 548-50.

78. For an amusing treatment of the "star" status of some faculty, see Paul A. LeBel, *Law Professor Trading Cards—“Has Anyone Got a Monaghan for a Tribe?”* 38 J. LEGAL EDUC. 365 (1988).

programs, and the typical school's lack of investment in the program and faculty, testing out a temporary teacher may be more trouble than the host cares to endure. The donor school is also not likely to keep a position available for someone who might want to return from a visit. These structural and political disincentives for a visit are even greater if the person seeking a visit is the director—the administrator charged with oversight for the program. When a faculty position carries with it administrative responsibilities, such as a deanship or leadership of a special program such as a clinic or an LL.M. program, schools usually do not even consider a “look-see” visit to fill a vacancy. Over time, however, as programs mature and as faculty within them gain more security and independence, visitorships or exchanges of professors within programs may become more commonplace.<sup>79</sup>

### C. Adjunct Positions

American law schools commonly create adjunct positions.<sup>80</sup> Adjuncts are usually practicing attorneys or active judges who teach one course during one or two weekday evenings, or on a Saturday, at the local law school. The dean, or an associate dean, may appoint adjunct professors without the involvement of other full-time faculty members in the appointment process. The greatest degree of faculty involvement may arise if the adjunct's course is new to the curriculum and it requires prior approval by a faculty committee before it is offered.

Unless students complain during the semester, a dean is unlikely to exercise very much oversight of adjunct professors until he or she reviews end-of-semester student evaluations.<sup>81</sup> A law school may hire adjuncts to teach “boutique” courses when the subject matter is not within the expertise of the regular full-time faculty or when someone with that expertise is temporarily unable to teach the course. Schools also rely on adjuncts for many practical skills courses, such as trial advocacy, where teaching the course well requires many teachers,

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79. Temple University has arranged what may be the first such visit for a legal writing professor, a two-year visiting appointment to commence in the fall of 1999.

80. See generally Andrew F. Popper, *The Uneasy Integration of Adjunct Teachers into American Legal Education*, 47 J. LEGAL EDUC. 83 (1997); Karen L. Tokarz, *A Manual for Law Schools on Adjunct Faculty*, 76 WASH. U. L.Q. 293 (1998). According to the ABA, “A law school should include experienced practicing lawyers and judges as teaching resources, on a full-time or part-time basis, to enrich its educational program.” STANDARDS, *supra* note 54, Standard 403(c) (Instructional Role of Full- and Part-Time Faculty). The ABA's Interpretation 403-1 clarifies the Standard by adding: “Appropriate use of practicing lawyers and judges as part-time faculty requires that a law school provide them with orientation, guidance, monitoring, and evaluation. A law school may make appropriate use of qualified part-time faculty to provide professional skills instruction.” *Id.*

81. See Popper, *supra* note 80, at 90-91.

each having small classes.<sup>82</sup> Because such courses are offered in multiple sections, a school may assign a regular faculty member to an oversight role in an attempt to assure a standardized and acceptable level of teaching and learning in all sections.

A small and ever-shrinking number of law schools employ adjuncts to teach legal writing.<sup>83</sup> Those that do are usually found in urban areas where the pool of talented lawyers is quite large.<sup>84</sup> Some of today's full-time legal writing professors may have begun their careers as adjunct legal writing professors, but, for reasons noted later, an adjunct appointment of any kind is not often a path to full-time teaching at that same school.

A university typically does not require advertising for one-year adjunct appointments made by a dean. Most law school administrators prefer to avoid the expense and hassle of advertising for adjunct professors and utilize word-of-mouth references from current adjuncts or responses to the law school's direct inquiries to targeted groups, such as appearances by the dean or director at a local bar association meeting or from articles about the writing program in law school alumni magazines. Many legal writing program directors do not find it necessary to advertise for adjunct professors, although schools with constant turnover in the adjunct professor corps may advertise every spring. Regardless, a "cold call" or unsolicited letter from someone who was otherwise motivated to apply for an adjunct teaching appointment may impress a director more than an applicant who is responding to an advertisement.<sup>85</sup>

Rarely given offices, not often invited to any faculty functions, and usually unnoticed by the other professors, adjuncts are not part of the law school's life except for the brief hours spent teaching their

82. See *id.* at 83 ("In the greater Washington region, for example, it is not unusual for a law school to list anywhere from 100 to 200 adjunct faculty. Even when you set aside writing and advocacy instruction, at some law schools adjuncts teach 20 to 35 percent of the upper-level curriculum.")

83. Professor Ramsfield reported: "In 1994, only 13% [of law schools used] adjuncts without professionally trained legal writing professors. In 1990, that number was 25%." Ramsfield, *supra* note 2, at 14 n.102. She further reported that only 11 schools used students to teach legal writing where the students were not supervised by a writing professional, a drop from 17 schools in 1992. See *id.* at 14 n.109.

84. See SOURCEBOOK, *supra* note 1, at 77-82.

85. I am more impressed by someone who calls me directly or sends me an unsolicited letter because the interest of such a candidate is more likely to be deeper and rooted in some research about the field and school. A colleague of a current adjunct is more likely to understand what is involved and come "pre-screened" in effect, making the interview and hiring more likely to have positive results. I share most directors' fears, however, that references of this nature may be accompanied by hidden dangers involving school politics or alumni relations.

students. Schools often give adjuncts few roles and little voice in the overall structure of the law school.<sup>86</sup>

In most good adjunct-based legal writing programs, however, the director, year after year, invests a good deal of time and energy in the program, giving adjuncts a great deal of guidance.<sup>87</sup> Many have a formalized training and orientation program, starting with meetings and training sessions before the classes commence and continuing with a yearlong series of workshops and meetings.<sup>88</sup> The director must repeat this investment every year because of the turnover of the adjunct professors, and the repeated, yearly training regimen in programs with high turnover of teachers may contribute to director burnout.

Candidates for adjunct appointments often want to "try out" teaching to see if it is something they will enjoy or something for which they have any aptitude. This is a perfectly appropriate set of goals,<sup>89</sup> and they are goals I shared when I taught as an adjunct from 1980 to 1982. Lawyers with adjunct appointments, however, quickly fall into one of three camps: (1) those who will do it for one year only, deciding (or having it decided for them) that teaching is not in the cards; (2) teachers who enjoy the experience and are good at it, but for whom two or three years is the maximum time they are willing to invest in the part-time work; and (3) those for whom it becomes a valued and important sidelight (many of these lawyers often teach as adjuncts for ten years or more). For all who continue, the money is not a factor, as law schools often pay very little money to their adjuncts.<sup>90</sup> Furthermore, adjunct-based legal writing programs are limited in what they can accomplish because full-time law practice places limits on what even the best adjunct can accomplish as a teacher. Adjuncts simply cannot have the same commitment to

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86. See Tokarz, *supra* note 80, at 296 ("[A]djuncts continue to exist on the periphery of most law school operations."). *But see* Popper, *supra* note 80, at 86 (describing the treatment of all adjuncts as a special faculty group within the law school, paralleling the treatment of full-time faculty); Tokarz, *supra* note 80, at 298-304 (describing the methods of promoting effective teaching by adjuncts).

87. See Sharon Reich & Eric Easton, *Legal Research and Writing Taught by Supervised Adjuncts*, in *POLITICS OF LEGAL WRITING*, *supra* note 16, at 108, 108-15.

88. See *id.* at 110-12, 115 (describing the program at the University of Minnesota).

89. See SOURCEBOOK, *supra* note 1, at 78.

90. At my school, for example, an adjunct legal writing teacher will receive the University's standard stipend of \$1000 per credit hour, totaling \$4000 for a year of work with 10 to 12 students. Professor Ramsfield reports that the most common salary for adjuncts in 1994 was \$3000. See Ramsfield, *supra* note 2, at 16-17 n.121. Many who work at large firms simply decline the stipend, and the lawyer or her firm considers the money a donation to the school. Legal writing directors supervising programs based on adjuncts often think that money is not the motivating force behind continued teaching by experienced adjuncts. *But see* Popper, *supra* note 80, at 87 ("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.").

teaching as someone who has made teaching a full-time career;<sup>91</sup> anyone who thinks otherwise should consider why modern legal education and the ABA accreditation standards promote the employment of a full-time law faculty.<sup>92</sup>

An adjunct appointment is not a way onto the law school's regular faculty, no matter how well the adjunct professor teaches. Some teaching experience—but not too much—probably is helpful, however, if an adjunct seeks a full-time appointment at another law school.<sup>93</sup> In legal writing, the numbers of people seeking full-time legal writing teaching positions have grown so great, and their qualifications have become so impressive, that many schools require, or give great weight to, prior law school teaching experience, especially experience teaching legal writing.<sup>94</sup> Other than having an interest in finding people who are more likely to be able to “hit the ground running,” a legal writing director hiring a new professor is likely to want candidates who understand and enjoy the kind of tasks that are indispensable parts of modern legal writing pedagogy: providing extensive critiques of student papers and meeting with individuals in conferences. Someone with prior teaching experience is also more likely to be a “team player” who understands the administrative demands of a legal writing program and the interdependence of those teaching the many sections of the course.<sup>95</sup> Neither of these concerns is common among the faculty teaching doctrinal courses, other than a general desire for faculty “collegiality.”

#### D. Graduate Fellowships

Many schools have graduate programs for lawyers in which the students teach legal writing as part of their responsibilities. These programs vary widely and fill the instructional gap between adjunct part-time appointments and short-term (but full-time) legal writing faculty appointments. At some schools, “a writing fellow” is the term used for what is virtually indistinguishable from a two-year capped

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91. See SOURCEBOOK, *supra* note 1, at 79. That is not to say that some adjuncts are not excellent teachers. They are. But law school teaching, at a professional level, is not a part-time job. I run a program with full-time teachers, adjuncts, and graduate fellows, and there are perceptible differences in the quality of the work produced by the students, which reflects the teaching done by the different kinds of teachers.

92. See STANDARDS, *supra* note 54, Standard 402.

93. Nontenure-track teaching experience is not likely to be seen as positively as tenure-track teaching, particularly if the teaching were as an adjunct, in clinical courses, or legal writing. See Zenoff & Barron, *Hiring a Law Professor*, *supra* note 7, at 503. The teaching of legal writing is no longer “a stepping stone for a career in academia.” Ramsfield, *supra* note 2, at 15 n.110.

94. See *infra* notes 110-11, 117, 124, 129, 139 and accompanying text.

95. See Arrigo-Ward, *supra* note 16, at 569-70; Levine, *supra* note 5, at 530-31.

contract for a full-time teacher; at others, the teacher is enrolled in a true degree-granting program.

Historically, a lawyer who wanted to become a law professor but did not perform exceptionally well in a J.D. program, or did not go to one of the "producer" schools, was advised to enhance his or her curriculum vitae and reference list by obtaining an LL.M. or another advanced law degree. For many such lawyers, the most valuable part of the graduate program is the opportunity to write one or more scholarly pieces while not bearing the burden of a full-time law practice. The benefit of an advanced law degree, however, may not be what it once was because the job market for professors has shrunk and the competition for teaching jobs has become more pronounced.<sup>96</sup>

Graduate students are not likely to focus on legal writing as a career, and graduate students, no matter how good they may be in their first year of teaching legal writing, rarely seek to develop true expertise in legal writing or to invest their time and energy in the field.<sup>97</sup> Nevertheless, there are several graduate programs in which the fellows teach legal writing, and a quick look at some two representative samples may be helpful.<sup>98</sup>

Temple, where I teach, has offered an LL.M. in Legal Education since 1975.<sup>99</sup> The Temple Graduate Teaching Fellowship Program provides teaching experience and an opportunity to produce scholarship, and it gives fellows enhanced marketability as a candidate for a position as a law school professor. During their first year, fellows teach one small section of legal writing (about thirty students) and collaborate with another faculty member by teaching some class sessions of that professor's doctrinal course. During their second year, a fellow will teach a smaller legal writing class, continue collaborations with a doctrinal professor by teaching some classes in another course, and will also teach a course of his or her own. Fellows must produce a thesis of publishable quality prior to receipt of the degree. The fellows work very closely with our full-time legal writing faculty. We run an extensive training program before the 1Ls arrive, share assignments, guide the fellows' development of their own assignments, and visit each other's classes. The program has been very successful and produced many outstanding law school professors.

A second example is Columbia's J.S.D./LL.M. program. The school appoints eight associates in law, usually for two-year terms. Six of

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96. See Fossum, *supra* note 5, at 509-10.

97. See SOURCEBOOK, *supra* note 1, at 82-83; see also Levine, *supra* note 1, at 627-28.

98. See SOURCEBOOK, *supra* note 1, at 82-83.

99. For more information, contact the Assistant Dean for Graduate and International Studies at Temple University School of Law, 1719 N. Broad St., Philadelphia, PA 19122 (<intl-law@vm.temple.edu>).

the associates teach legal writing seminars for first-year students in the J.D. program, while two teach legal writing to LL.M. students studying civil law. Many of these associates are simultaneously working on graduate degrees at Columbia.<sup>100</sup>

#### IV. SEEKING AN APPOINTMENT

##### A. *Decoding the Advertisements*

The *AALS Placement Bulletin* (*Bulletin*) is the primary source for finding out about full-time law school teaching jobs. The AALS mails the *Bulletin* to all who pay the fee for the AALS Faculty Appointments Register, and it is also available at most law school placement offices. The AALS divides the *Bulletin* into several sections, including "Faculty Positions," "Administrative Positions," "Nontenured Legal Research and Writing (LRW) Positions," and "Fellowships."<sup>101</sup> Legal writing teaching positions may appear in any of the sections. The number of LRW jobs advertised increases as the year progresses.

This Article summarizes the advertisements for the 1997-98 academic year for two reasons. First, knowing what a typical year involves is helpful for a new candidate to the field. Second, and perhaps more important, a careful review of the advertisements' language, particularly when the language is compared with the language used in the "doctrinal" faculty ads, reveals the nature of these jobs and the ways in which other law professors, consciously or not, view legal writing professors.

Schools advertise most tenure-track faculty positions as exactly that: "faculty positions." The advertisements specifically mention appointment as an "assistant" or "associate professor." The advertisements "invite application" from people with "suitable backgrounds" and list several doctrinal course titles open for new candidates' teaching. They almost never mention salaries or benefits in any way other than the most nebulous fashion.<sup>102</sup> The schools may

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100. See Columbia University School of Law, *Graduate Programs* (visited Jan. 13, 1999) <<http://www.columbia.edu/cu/law/LLM.html#assoc>>.

101. The titles and ordering of the sections reveals hierarchical views of these jobs, as well as declining number of advertised openings in each section. The last section is entitled "College and University Positions Not in Law Schools."

102. In 1996 Ramsfield reported that the most common salary range for full-time non-tenure-track legal writing professors in 1994 was \$30,000 to \$50,000 (this salary range covered 36% of those in the category), however, most instructors (i.e., the large subset of non-directors) earned only between \$25,000 and \$40,000. See Ramsfield, *supra* note 2, at 16-17. She also reported that 51% of schools in 1994 paid doctrinal professors over \$30,000 more than their legal writing colleagues. See *id.* at 17. These legal writing professors brought with them an average of four to seven years of experience in law practice. See *id.* at 18. Similarly, the 1998 ALWD/LWI survey reported that the average salary for an entry-level legal writing teacher (not a director) was \$38,590. See ALWD/LWI Survey, *supra* note 16, at 48.

consider “entry-level teachers,” although “experience is preferred.”<sup>103</sup> “Scholarly writing and research” are mentioned quite often, but the total teaching load—and numbers of students—are never mentioned. It is rare for any advertisement to imply any limitations on the academic freedom of a professor to design and teach his or her own course, unless the advertisement is for a clinical position or an administrative position.

The legal writing teaching advertisements, however, carry a very different and highly significant subtext, and they bear the burden of history.<sup>104</sup> First, the very titles of the positions proclaim the second-class status of many legal writing jobs; these advertisements seem to be written for underlings, not for faculty colleagues. Second, the salaries, when quoted, are often abysmally low, particularly if one considers the qualifications sought, the inherent workload, the cost of living in many urban areas, and the salaries being paid to entry-level, tenure-track candidates. Third, the contract terms in the advertisements reveal that the law schools intend for nearly all the jobs to be of a short duration;<sup>105</sup> similar notations about contract duration never appear in “regular” advertisements for law faculty. Fourth, even the purported advantages or relative benefits of some positions, by virtue of their placement in the advertisements, acknowledge the lack of those perks in other legal writing positions; they are, in ef-

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There is clearly a glass ceiling on the salaries of legal writing professors who are not on the tenure track. The Society of American Law Teachers (SALT) salary reports the average salaries for many law schools by professional rank. See SALT Equalizer (Albuquerque, N.M.), Mar. 1997, at 2. The latest SALT survey reported salary data obtained from 92 of 179 ABA-accredited law schools. Only 69 of the reporting law schools had any professor with the lowest rank of Assistant Professor. (This is probably because all new doctrinal faculty at many law schools are appointed at the rank of Assistant Professor, or because promotion of existing faculty has denuded the ranks of assistant professors.) Using this lowest paid group for comparison, a group that included few schools in the two most expensive regions of the country (the Far West and the Northeast), the author calculated the national average salary at the rank to be \$65,339. This is a sobering figure when compared to the salaries paid to legal writing professors. At the end of 1998, the legal writing professors at Temple conducted a national survey of salaries paid to nontenure-track, full-time legal writing professors during the 1997-98 academic year and collected additional information from each of the 219 professors, such as date of law school graduation, years of legal writing experience, and sex. While it is too soon to report fully on the analysis of the data, the salary range, unadjusted for cost of living, ranged between \$27,000 to \$73,000. Only three of the 219 responding legal writing professors reported salaries more than the average salary of assistant professors on the tenure track. See Temple University Legal Writing Program, 1997-98 National Survey of Legal Writing Professors (unpublished data, on file with author).

103. Experience is rarely linked to teaching or practice, however. There is another section of the *Bulletin* listing jobs for experienced teachers, which assumes lateral movement of tenured or tenure-track faculty.

104. Advertisements that I placed have not been any better than many of those listed, and I apologize to my colleagues for pointing out the hidden meaning in the ads for their own programs. The hardest thing for any writer is becoming self-aware, and we must bring to our consciousness the subtext in those ads.

105. Of course, the long-term positions open up more rarely and are not advertised frequently.

fect, a bone tossed to the hungry.<sup>106</sup> Finally, a close reading of these advertisements reinforces the conclusion of many feminist legal scholars that law schools are engaged in discrimination by the very nature of legal writing faculty appointments and by the kinds of work expected of those hired: women are more likely to fill these positions or to be sought after as writing professors because of the schools' perceptions of the "ideal" candidate for positions of limited scope and low status.

The first issue of the *Bulletin* for the 1997-98 academic year appeared in September.<sup>107</sup> The John Marshall Law School (Chicago) advertised the only tenure-track legal writing teaching position; it was for the school's "Lawyering Skills Program."<sup>108</sup> The advertisement characterized the position as one with "full faculty status," and stated that teachers for it "may be afforded the opportunity to teach other courses."<sup>109</sup> Experience teaching "lawyering skills" was "desirable."<sup>110</sup>

In the "Administrative" section of that first issue, Oklahoma City University advertised for a director. The school wanted candidates with substantial experience as legal writing instructors and stated that "prior experience as a director is highly desirable."<sup>111</sup>

That issue's section for "Non-Tenured Legal Research and Writing Positions" included several advertisements that appeared in each issue of the year's run. Chicago-Kent University ran an ad, which is run almost every year, for "visiting assistant professors, entry-level, non-tenure track appointments."<sup>112</sup> Each position was based on a "[t]wo-year contract, with possibility of renewal for two additional one-year terms."<sup>113</sup> The teaching load was one legal writing section of 30-35 students and one substantive course or seminar. The advertised salary for people with "a serious interest in teaching as a career, an outstanding law school record, and legal experience" was in the "low \$40's."<sup>114</sup> Chicago-Kent was also looking for a Director of

106. I myself have added similar items about voting, teaching load, ability to teach other courses, summer grants, and more to ads in an effort to make the positions more attractive to candidates with legal writing teaching experience. They may do so, but the irony is that schools feel the need to mention these standard faculty perks at all; the perks are conspicuously absent from the ads for doctrinal faculty members, which presume their existence and availability.

107. This was the only tenure-track legal writing position advertised for the entire year in the *Bulletin*.

108. *Non-Tenured Legal Research and Writing Positions*, PLACEMENT BULLETIN (Association of American Law Schools, Washington, D.C.), Sept. 5, 1997, at 4.

109. *Id.*

110. *Id.*

111. *Administrative Positions*, in PLACEMENT BULLETIN, *supra* note 108, at 13.

112. *Id.*

113. *Id.*

114. *Id.* This is for the Chicago area, one of the most expensive areas in the nation.

Appellate Advocacy, a nontenure-track appointment with “long-term potential.”<sup>115</sup> The quoted salary was in the “mid- to high \$40’s” but it came with the added requirement of “significant legal experience.”<sup>116</sup> The school’s advertisement stated that they “preferred” people with experience teaching legal writing.<sup>117</sup> The teaching load included teaching a one-semester course in appellate advocacy, teaching substantive courses, supervising students in the summer, supervising intramural moot court competitions and teams, and providing “leadership.”<sup>118</sup>

New York University was also seeking faculty for the Lawyering Program, which covers “legal research, writing, and analysis and simulated clinical exercises involving interviewing, counseling, negotiation, and advocacy.”<sup>119</sup> They required significant practice experience, with “litigation experience preferred.”<sup>120</sup> The salary was in the “high \$50’s,” for a one-year appointment that “can be renewed for two additional years.”<sup>121</sup> Oklahoma City University was looking for “instructors” with significant legal experience and a “demonstrated ability to research and write.”<sup>122</sup> Southern Illinois University was looking for “Clinical Instructors (Lawyering Skills).”<sup>123</sup> The requirements included an excellent law school record (rank in class, law review, moot court, etc.) and “demonstrated success in legal writing and oral argumentation, prior teaching experience, and judicial clerkship experience.”<sup>124</sup> The University of Toledo was looking for “instructors” for nine-month appointments with “competitive” salaries and “generous fringe benefits.”<sup>125</sup> Tulane University advertised for “Instructors (Forrester Fellows)” who are “given significant responsibility for the structure, method and materials to be utilized in their section of the course.”<sup>126</sup> They required practice experience and an excellent law school record for a one-year appointment “which can be renewed for one additional year.”<sup>127</sup> They mentioned no salary for any of these positions.

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115. *Id.*

116. *Id.*

117. *Id.*

118. *Id.*

119. *Id.* at 13.

120. *Id.*

121. *Id.* Given the cost of living in Manhattan, this salary is far smaller than it first appears.

122. *Id.* at 14.

123. *Id.*

124. *Id.*

125. *Id.*

126. *Id.*

127. *Id.*

In the year's second issue, the University of Arkansas (Little-Rock) advertised for an "additional legal writing instructor," a nine-month, nontenure-track appointment.<sup>128</sup> Prior teaching and law practice experience, and "an interest in teaching legal writing as a career," were considered desirable.<sup>129</sup> The instructor would teach one-third of the entering class and an upper-level seminar each semester, for a "competitive" salary.<sup>130</sup> Columbia University advertised four two-year positions as "Associates-in-Law," three of whom would "be responsible for conducting" the legal writing course.<sup>131</sup>

In the third issue of the *Bulletin* that year, Arizona State University advertised in the "Administrative Positions" section for a director of the legal writing and academic support programs.<sup>132</sup> The candidate's experience "should demonstrate potential for excellence" in legal writing teaching and administration, but they mentioned no salary or contract term.<sup>133</sup> California Western School of Law wanted to "hire a Legal Writing Professor" on "a full-time basis with the possibility of reappointment and long-term, non-tenure track status."<sup>134</sup> For this "integral part" of the curriculum, the school added the responsibility for "counseling individual students" to teaching objective and persuasive writing.<sup>135</sup> The University of Illinois (Urbana-Champaign) was looking for "visiting assistant professors" at a nine-month "salary of \$30,000" for teaching approximately thirty first-year students.<sup>136</sup> After an initial year, which might include coaching moot court, they might reappoint the professors to teach "upper-level writing courses."<sup>137</sup> The professors could simultaneously pursue a masters of law degree "on a tuition exempt basis" but could not have other employment.<sup>138</sup> Northwestern University was "seek[ing] legal writing instructors" to teach writing, analysis, brief writing, and appellate advocacy. They called for candidates with an interest in teaching and some "legal or teaching experience."<sup>139</sup>

By the time of the *Bulletin's* fourth issue, after the Meatmarket, Mississippi College of Law advertised in the "Administrative" section

128. *Non-Tenured Legal Research and Writing Positions*, PLACEMENT BULLETIN (Association of American Law Schools, Washington, D.C.), Sept. 26, 1997, at 13.

129. *Id.*

130. *Id.*

131. *Id.* at 13-14.

132. *Administrative Positions*, PLACEMENT BULLETIN (Association of American Law Schools, Washington, D.C.), Oct. 10, 1997, at 12.

133. *Id.*

134. *Id.* at 14.

135. *Id.*

136. *Id.* at 15.

137. *Id.*

138. *Id.*

139. *Id.* at 15.

for a director. The director would, "with the help of professional librarians, adjunct instructors, and student teaching assistants," conduct the first-year courses, one of which "tracks the subject matter of the Civil Procedure" course.<sup>140</sup> The director would also teach a one-credit "writing skills component of the summer academic support program . . . for entering at-risk students" and would coordinate the academic support program.<sup>141</sup> Furthermore, the director would also advise moot court, coordinate appellate competition teams, and coach moot court in the spring.<sup>142</sup> This position, with "competitive" salary and benefits, was for a one-year appointment that "may be renewed."<sup>143</sup> In the same issue, new ads appeared in the "Non-tenured Legal Research and Writing" section for University of Dayton, Mercer University, Ohio Northern University, University of San Diego, and Villanova University.<sup>144</sup>

The fifth issue of the *Bulletin* added an advertisement from University of California at Los Angeles and one from Indiana University, for "lecturers."<sup>145</sup> The final issue included a notice from Cornell, noting that the Lecturers' responsibilities "may include participation on faculty committees, attendance at faculty meetings, and other service to the law school community."<sup>146</sup>

### B. Beyond the Meatmarket

Several newsletters other than the AALS's Meatmarket materials list LRW openings. First, the Section on Legal Writing, Reasoning, and Research of the AALS publishes a quarterly newsletter for all members of the section who are currently law professors.<sup>147</sup> People not currently in law teaching can ask a LRW professor to pass on copies of the section newsletter. Finding an opening mentioned in the newsletter is common, but because of the infrequency of the newsletter, advertisements may be stale by the time people receive the newsletter.

The Legal Writing Institute is the largest organization of people interested in legal writing, and the institute mails a newsletter, *The*

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140. *Administrative Positions*, PLACEMENT BULLETIN (Association of American Law Schools, Washington, D.C.), Feb. 6, 1998, at 7.

141. *Id.*

142. *See id.* Given the weight of such a vast range of responsibilities for the full year, it is unlikely that anyone would remain in such a position for long unless possessing the power of Superman and the patience of Mother Teresa.

143. *Id.*

144. *See id.* at 9-10.

145. PLACEMENT BULLETIN (Association of American Law Schools, Washington, D.C.), Mar. 6, 1998, at 4-5.

146. *Id.* at 4-5.

147. The address for the AALS is 1201 Connecticut Ave., N.W., Suite 800, Washington, D.C. 20036-2605; telephone (202) 296-8851; fax (202) 296-8869.

*Second Draft*, to all members. The Institute recently created an e-mail newsletter, *LWI-NET*, which the Institute uses for announcing events and jobs.<sup>148</sup> In addition, *LEGWRI-L* is a general Internet discussion list for legal writing professors.<sup>149</sup> Schools often post job announcements on the *LEGWRI-L* list.<sup>150</sup> Association of Legal Writing Directors (ALWD) operates a second Internet discussion list, *DIRCON97*, on which members may announce job openings, but ALWD restricts real-time access to the listserv to members of the organization.<sup>151</sup>

Many schools advertise openings in local or state bar association newspapers, in the *Chronicle of Higher Education* (a national news-

148. To join the Institute and subscribe to *The Second Draft*, contact the Legal Writing Institute, Seattle University School of Law, 950 Broadway Plaza, Tacoma, Washington 98402-4470; telephone (253) 591-2235 or visit the LWI Web site at <<http://Isprod.mtcibs.com/faculty/lwi/index.html>>. The current LWI officers may be contacted and are listed in the "Other Organizations" section in the front of the *AALS Directory of Law Teachers*.

149. The list address is <[legwri-l@chicagokent.kentlaw.edu](mailto:legwri-l@chicagokent.kentlaw.edu)>. To subscribe to the list, send <[subscribe-legwri-l](mailto:subscribe-legwri-l@chicagokent.kentlaw.edu)> to <[listproc@chicagokent.kentlaw.edu](mailto:listproc@chicagokent.kentlaw.edu)>.

150. In January 1999 the ALWD board approved a new rule for job postings on the *DIRCON* list. The rule was also approved by the LWI board of postings on *LWI-NET*, the organization's electronic newsletter, and it will be used for postings on *LEGWRI-L*, the general listserv for legal writing professors. All advertisements must answer the following questions at the beginning or end of the ad:

1. The position advertised.
  - a. is tenured-track.
  - b. can lead to long-term contracts.
  - c. has neither of these forms of job security.
2. The person hired will be permitted to vote in faculty meetings.
  - a. true
  - b. not true
3. The school anticipates paying an annual academic year base salary in the range checked below. (A base salary does NOT include stipends for coaching moot court teams, teaching other courses, or teaching in summer school; nor does a base salary include conference travel or other professional development funds.)
  - a. \$80,000 or more
  - b. \$70,000 to 79,999
  - c. \$60,000 to \$69,999
  - d. \$50,000 to \$59,999
  - e. \$40,000 to \$49,999
  - f. \$30,000 to \$39,999
  - g. less than \$30,000
4. The person hired will teach legal writing, each semester, to the total number of students in the range checked below.
  - a. less than 30
  - b. 30 to 44
  - c. 45 to 59
  - d. more than 59

151. As of this writing, I am the listowner and manager. I may be contacted by electronic mail at <[levine@thunder.ocis.temple.edu](mailto:levine@thunder.ocis.temple.edu)>. To join ALWD and subscribe to the *DIRCON97* listserv, contact ALWD, c/o Chicago-Kent College of Law, Illinois Institute of Technology, 565 W. Adams St., Chicago, Illinois 60661-3691; telephone (312) 906-5345; ALWD has a Web site at <<http://www.kentlaw.edu/alwd/index.html>>. The current ALWD officers may be contacted and are listed in the "Other Organizations" section in the front of the *AALS Directory of Law Teachers*.

paper available at most libraries), and in local newspapers. The best ways to find out about openings, however, may be inquiring of the writing faculty at your local law schools directly, or sending each school an unsolicited application letter addressed to the writing program director, dean, or faculty hiring committee chairperson.

### C. Applying

The initial hurdle for someone applying for a legal writing teaching position, ranging from an adjunct appointment to a graduate program fellowship or full-time position, is the director's or faculty hiring committee's review of the candidate's job letter. I have read many job application letters, for all sorts of law-related jobs, and read many letters from people seeking to teach legal writing.<sup>152</sup> In fact, for several years now, in my upper-division legal writing class, I have used an opening exercise based on actual letters sent to me by lawyers seeking legal writing teaching appointments. In the exercise, I assign the students to play the role of an appointments committee, screening forty pages of letters and deciding which applicants will go farther along the path or have their letters meet an ignoble end in the oblivion of the "circular file." After the exercise, the students revise their own job letters and résumés; what they have gained is an appreciation for the audience's perspective. Although much has been written elsewhere about good letter writing and résumés,<sup>153</sup> I will share additional salient points of advice gleaned from my own experience (and from my students' review of the letters, which duplicated to a high degree the "real world" faculty reactions to those same letters).<sup>154</sup>

Résumés and cover letters serve limited purposes. No wise applicant intends for the cover letter to tell the full story of one's life (that job is best reserved for a biographer). In a job letter, an applicant should not recount past glories, particularly if they were in another career wholly irrelevant to the new one you want to begin.<sup>155</sup> A résumé with an elite law school pedigree and no more explanation of why the applicant is interested in teaching legal writing may actually work to one's disadvantage, as it is more likely that an elite law school has not seen fit to offer any professional legal writing instruc-

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152. For example, in a year at Arkansas or Temple following early national advertising for a full-time position, I might review about 125 applications.

153. See, e.g., C. EDWARD GOOD, *DOES YOUR RESUME WEAR BLUE JEANS?* (1998). A former legal writing professor wrote this popular book about writing résumés.

154. Copies of the letters, with the writers' names removed, are on file with the author.

155. For example, an applicant should not tell all about his anthropology career or wax eloquent about the glories of being a nurse or a certified public accountant.

tion to the students.<sup>156</sup> A cover letter provides a reason to read the résumé; it acts much as a knock on the door, or a good smile and a pleasant demeanor in a face-to-face meeting. The letter does not substitute for the applicant's résumé, yet an applicant should not rely on the (perhaps never read) résumé to bring truly germane or critical items to the reader's attention. A successful cover letter and résumé get the applicant to the next step in the process, which is an interview. Neither document will result in a job offer, but one or the other may kill an applicant's chances of ever being interviewed.

A prospective writing professor should know that spelling or grammatical errors speak volumes about a writer's care and attention to detail. It is not uncommon for one mistake in a cover letter to destroy an applicant's prospects.<sup>157</sup> Such errors are, of course, far more deadly if you are applying to teach legal writing. For example, when I taught at the University of Arkansas, a school that was proud to point out that two former faculty members were now residents of the White House, I had more than a few applications along the line of the one from a lawyer who said she "look[ed] forward to both the opportunity to teach at the same school at which the Clintons' [sic] taught and to hearing from you."<sup>158</sup>

As far as length goes, I have seen letters ranging from three lines (a short form letter for any job imaginable) to four single-spaced pages (accompanied by multiple attachments filling a cardboard box originally used for a ream of paper).<sup>159</sup> The best letters are one page long, perhaps a bit longer if the person has significant teaching and law practice experience. After one page is filled, however, the letter writer runs an increasing risk of saying too much that is off the mark, or just saying the wrong thing.

As do many doctrinal law professors, many applicants for legal writing teaching positions unfortunately assume any law school graduate can teach anything, particularly writing, and that professing a "great desire" or "great interest" to teach is enough. Neither assumption is true. Many cover letters focus on how much the applicant wants the job, on how excited the applicant would be to get an interview, on how much the job would promote the applicant's ca-

156. See Levine, *supra* note 5, at 540 (citing Rideout & Ramsfield, *A Revised View*, *supra* note 16, at 40 n.16); Ramsfield, *supra* note 2, at 20-22.

157. For example, an applicant who used "council" instead of "counsel" to describe her position might find the error to be not only embarrassing but fatal.

158. Another told me that her writing was devoid of "the dreaded 'legalize'" and that she would "relish the opportunity to pass on these traits to a new generation of lawyers," a genetic engineering plan that we nipped in the bud.

159. The shortest one was the classic all-purpose, one-letter-fits-all note: "In response to your school's notice in the *AALS Placement Bulletin*, I enclose my resume and writing samples as requested. Thank you for your consideration."

reer, or how much the applicant would learn. All of those are applicant-centered reasons that are not relevant to the schools (who are employers, like any others, having many, many qualified applicants who would kill for the job). Few tell the reader how the applicant will make the writing program director's life easier, or explain how much students would benefit from having the applicant as a professor.

The cardinal rule of writing may be to remember your audience, and that is as true in this situation as in any other. The reviewer is looking at a cover letter to see if the applicant can write; to see if the applicant is qualified to teach and perhaps to produce scholarship; to see if the person may be interesting to have around; and to decide whether the applicant meets the institution's and the writing program's needs. A wise applicant would do the utmost to understand the requirements of the particular job before sending out that letter. A letter that discusses in great detail the writer's philosophical musings about contract law is not calculated to get one an interview for an appointment teaching legal writing. On the other hand, an interview is unlikely if the cover letter reveals that the writer "avidly read[s] books and articles on writing, and often make[s] colleagues groan by starting conversations about fascinating questions of grammar and usage." A strong cover letter balances the applicant's understated pride in his or her accomplishments with a clear and concise statement of what the applicant has done. Artless self-promotion, hype, or bluster does not go over well.<sup>160</sup>

Given the number of talented people in today's market for legal writing professors, a strong candidate should explicitly identify particular interests or experiences that are relevant, such as prior teaching experience, a familiarity with the literature about legal writing, or some personal contacts that sparked the candidate's interest (such as another person's experience teaching legal writing, or, better yet, a suggestion by another legal writing professor that the lawyer seek out a teaching position). This has to be carefully done, however. I have had people without any teaching experience expound at length about how they thought we should structure or teach the course. All revealed dangerously naive (but deeply held)

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160. An applicant should assume that the reader is at least as accomplished as a lawyer as is the writer. "Puffing" oneself will often backfire. One candidate informed me that "I am an ideal candidate for the posted position [because of] . . . my innate high intelligence, as demonstrated by my LSAT score . . ." Another began her letter with this mouthful: "Because of my work experience in a civil trial firm, teaching experience in public school systems, education and experience in the business and medical areas and your educational needs in legal research and writing program, I am writing to you with regard to a legal writing instructorship position with your law school." I ran out of breath just reading that.

assumptions.<sup>161</sup> Other applicants are secretive about their work or their past.<sup>162</sup> I have seen careless references with misspelled names of textbook authors who are my friends,<sup>163</sup> and I have heard from applicants that tout outmoded pedagogy not used in my program (or in any others created since 1950). Someone without experience teaching legal writing should realize that the people conducting the interview have probably learned much about teaching over their careers, usually the hard way, and that one's novel ideas about teaching are probably reactions to one's own limited experiences as a student; those ideas are neither as novel nor as simple as the candidate believes. Some research into legal writing pedagogy and scholarship will quickly temper a novice's zeal to overstate the contributions one can make to the field. Even more important, the wise candidate should reveal an understanding of the program to which he is applying. Far too many people have sent me letters to me or have shown up for interviews without reading publicly available materials or even materials that I sent them well in advance describing the program and courses.<sup>164</sup>

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161. The level of expertise among directors of writing programs is far higher than it was only a decade ago, and most directors do not have to suffer fools gladly. A young lawyer who would not compare his or her experience to that of a senior partner or a seasoned judge should not treat a writing program director with any less deference.

162. One applicant erroneously informed me that "for obvious reasons of confidentiality," she was "unable to provide me with copies of memoranda prepared for the judges" and then cautioned me not to call any references at all, stating "given the fact that I will be applying to more than one school, I would ask that we leave this process to the end, should you be seriously interested in offering me a position." Not only are most judges, when asked, likely to permit clerks to use carefully edited work product for writing samples, but lawyers customarily remove from writing samples all information that would identify a client or other parties.

163. In one letter, Professor Helene S. Shapo, who co-authored one of the two best-selling writing texts, *Writing and Analysis in the Law*, with Professors Marilyn R. Walter and Elizabeth Fajans, was metamorphosed by the applicant, a former legal writing teaching assistant, into the sole author of the text, and was renamed "Helen Shapiro." But then again the author, who was still a law student, revealed some powers of perception by her observation that she was sure Fayetteville, Arkansas, where I was teaching, was "a world uniquely different than the one I've known."

164. This lack of interest or preparation is something unfortunately common in many law school interviews. See Zillman et al., *supra* note 7, at 354-55. Professor Arrigo became so tired of applicants for the California Western legal writing program not having any realistic concept of what was involved in the teaching of legal writing that she prepared a long memorandum and extensive packet of material to send to prospective teachers about the expectations she held for full-time and adjunct professors. See Maureen Arrigo-Ward, *Warning the Prospective Legal Writing Instructor, or "So You Really Want to Teach?,"* 4 PERSPECTIVES 64 (1996); Arrigo-Ward, *supra* note 16, at 566-67.

While I get upset at people who show up for interviews without having read similar materials sent to them days in advance, I also get annoyed at small things in initial letters that reveal that the applicant has not done too much advance research. A common, but annoying, error is misspelling the recipient's name, or getting the person's sex wrong. Many letters I receive are addressed to Ms. Levine. The law school bulletin and other sources can attest that I am not a woman. Some letters have come addressed to "Mr. or Ms. Jan Levine,"

When an applicant writes about work or teaching experience, she should stress and emphasize positions, titles, responsibilities, and accomplishments (using active verbs) that reflect the experience and interests needed for teaching legal writing to first-year students, not merely the dates the candidate was employed by a particular firm or judge.<sup>165</sup> Many applicants for teaching positions are fleeing law practice. Nevertheless, I have found that many legal writing professors enjoyed many aspects of their prior law practice,<sup>166</sup> but they love teaching and working with students even more.<sup>167</sup> Virtually every legal writing program wants professors with significant law practice experience,<sup>168</sup> quite unlike the attitude held by many law schools, particularly the elite law schools, when hiring doctrinal faculty.<sup>169</sup>

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which is rather interesting, and some writers take the safe course of addressing the letter to "Professor Levine."

165. One of the classics that always makes my students howl is from the applicant who wrote "while I was in law school, I worked as a law clerk at Kentucky Fried Chicken." Of course, the writer meant the corporate offices, not the corner fast food restaurant, but the ambiguous reference was deadly.

166. One applicant for a legal writing position in my program wrote: "I have simply not found the rewards of teaching in private practice." Unfortunately, this unhappiness with law practice has been transformed into disdain and scorn by many doctrinal law professors, particularly at the elite law schools. See, e.g., Lilly, *supra* note 15, at 1460 ("[T]here is a growing disdain in the academic world for practice, practicing lawyers, or in some cases for the law itself.").

167. The views of legal writing professors toward teaching and students contrasts dramatically with those doctrinal law professors who view students as a necessary evil. See Schiltz, *supra* note 15, at 771-74. The critical importance of teaching and the individualized nature of good writing instruction is shown in the nature of legal writing literature itself, in which the scholars do not differentiate between what they teach and what they write about as scholars. See, e.g., Arrigo, *supra* note 8, at 154-55; Kearney & Beazley, *supra* note 16, at 887-90; Rideout & Ramsfield, *A Revised View*, *supra* note 16, at 61-74.

168. Professor Ramsfield reports, "Legal writing professors have an average range of four to seven years' practice experience before coming to teaching." Ramsfield, *supra* note 2, at 18. This is reflected in the advertisements for legal writing teachers. For example, one advertisement for legal writing teachers posted by the University of California at Berkeley on the LEGWRI-L Internet discussion list in the spring of 1998 called for applicants with "a law degree, excellent academic credentials, excellent writing and communication skills, and some writing experience, in practice or otherwise. Prior teaching of legal writing or appellate advocacy is a plus." A second, posted the same month by the University of Arkansas (Fayetteville), called for applicants with "a strong academic record, and law practice experience. Prior legal writing teaching experience is a plus." While the quoted salary figures for the two positions, adjusted for the relative costs of living, were quite different, the two schools were looking for the same kinds of candidates. For a discussion about LEGWRI-L, see *supra* notes 149-50 and accompanying text.

169. Professor Patrick Schiltz recently examined the experience level of new faculty hired at the Harvard Law School. He wrote:

If it is indeed true that as Harvard goes so goes the academy, then a close examination of the Harvard Law School faculty should provide particular insight into the future of legal education. That future will apparently include faculties made up almost entirely of people without substantial experience practicing law—or at least practicing in the private sector. Although most Harvard *graduates* go on to practice in private law firms, most Harvard *professors* have little or no such experience. Only three of the seventy-five members of the Harvard Law faculty have more than five years experience in private practice. The youngest

On the other hand, many job letters reveal a deeply-seeded feeling that the applicant is unworthy of consideration for a job. Of course, sometimes the feeling is based on truth. One year an applicant instructed me to “not dismiss my résumé summarily as I think I have at least earned the right to a personal interview to discuss my qualifications and how I may help further your institution’s scholarly progress” after disclaiming “I sincerely doubt I will be the next Oliver Wendell Holmes.”<sup>170</sup> That same year another letter noted the writer’s “mediocre overall class rank,” and that he “did not generally produce a good first draft,” but then pointed out his articles and said that his “finished product after editing has always been evaluated as among the best.”

In today’s marketplace, lawyers and teachers who are interested in teaching legal writing and doing scholarly research and writing may find that the Meatmarket process puts them between a rock and a hard place. A candidate who lists legal writing as a teaching interest or a field of scholarship may find it to be the kiss of death for a doctrinal faculty appointment,<sup>171</sup> and an emphasis on doctrinal interests may mitigate against consideration for a legal writing job. With some regret, I have to conclude that the AALS résumé is not the place for a person new to the academy to emphasize an interest in, or experience with, teaching legal writing, unless the candidate is clearly and surely interested in a rare appointment as a tenure-track legal writing professor or a legal writing program director. If, however, an experienced candidate is irrevocably interested in making legal writing a career goal, then it may be appropriate to differentiate oneself from the pack by an appropriate notation and some refreshing candor and honesty.

It is not, unfortunately, uncommon for either a law school recruiting team or a candidate to be unclear about whether a particular opening that is the subject of an interview is, indeed, a legal writing teaching position. Candidates have told me that they went through an interview that they believed was for a doctrinal position, only to be told afterwards that they did not seem interested in teaching legal writing. Similarly, I have heard faculty members con-

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of these three is sixty-six years old, last practiced law in 1964, and was appointed to the Harvard faculty in 1966. In other words, not a single member of the (huge) Harvard Law school faculty has practiced in a law firm at even a senior associate level in the last thirty years . . . . Indeed, if current trends continue, the average Harvard faculty member will soon have only a bit more experience in private practice than the average summer associate.

Schiltz, *supra* note 15, at 760-62; see also Borthwick & Schau, *supra* note 5, at 231-32.

170. The same applicant told me that he “chose education as . . . [his] pathway to subsistence” after realizing that he “wasn’t proficient enough at . . . crime . . . or athletics.”

171. See Zillman et al., *supra* note 7, at 354.

ducting interviews report that a candidate thought a position was a legal writing job, when it was for a doctrinal teaching position. The parties often share the blame for this kind of confusion equally, but it takes only one brave person to clarify and resolve the situation before it becomes a tragedy.

A candidate should understand that straddling the fence between doctrinal and writing teaching can be an uncomfortable position; it would be wise to consider what might happen if you fall down on either side. If a school offers an interview, the candidate should attempt to learn, well before the interview, exactly what the school is looking for. If neither party is clear, then the candidate and the interview team will be like two ships passing in the night.

Because most full-time legal writing positions are not tenure-track appointments, however, many schools will not commence a search for, or interview, legal writing professors until after the doctrinal hiring from the Meatmarket process has been finished (or at least well in progress). Most advertised openings for legal writing professors appear after the spring semester commences.<sup>172</sup> So, while schools often advertise some jobs in the fall for the next year, typically directorships, and while schools may fill a few legal writing positions via the Meatmarket process, it is far more common for law schools to announce openings for legal writing positions between January and May, or even later for a late-breaking opening.<sup>173</sup> The challenge for someone who did not secure a job via the Meatmarket, but who is, nonetheless, interested in a legal writing appointment, is to avoid the sour-grapes feeling, not look like a rejected suitor, and to undergo a makeover as a candidate. These adjustments are not easy, but at the very least, a smart job seeker would revise his or her résumé and cover letter for this new situation and figure out how to deal with inevitable questions about “what is it you really want to do?”

#### *D. Directorships: Special Concerns*

Despite the trend toward long-term contracts for legal writing professors, the traditional path to higher status and salary within the field of legal writing has been the ascent to program director.

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172. The other reason is that the legal writing teachers at the school may have found a better job in the fall's market.

173. Under the *AALS Statement of Good Practices for the Recruitment of and Resignation by Full-Time Faculty Members*, law schools and faculty members are encouraged to finalize plans for the upcoming academic year before April 1, and law schools are told they should not try to hire a full-time professor away from another law school after June 1. This is an effort to avoid a domino-like chain of searches and hires too close to the start of the new semester.

Being a director has many positive aspects. A director can have more than one teacher's impact on the education of the school's law students; a legal writing program affects every student at the school because the program determines the shape and content of every section of one of the first-year courses required of all students. A director knows what happens in all the writing classes, to a degree unparalleled by the same students' torts or contracts professors, who may not talk about their courses to their colleagues teaching other sections. A director has an opportunity to influence the training in the core skills area required of all attorneys and can make a difference in the profession.

Yet, such a path is not for everyone. While many administrators can be found in the world, not all are good ones. Few soldiers make good officers, few lawyers are good managers, and fewer teachers can be effective as deans or program directors. Leadership is a rare commodity, and continued effective leadership is even rarer. Many days, however, I think the smartest people in the academy are those who avoid administrative responsibilities like the plague. Although most law professors may feel that way about the duties of a deanship, they do not seem to understand that many legal writing professors are as wise as they in wanting just to teach and write.

For better or for worse, however, the option most open to people seeking increased status, salary, and security is to apply for a directorship. I have been interviewed for about ten different director positions over the years, and I have been lucky to have had some choices. I have directed programs at three schools and finally got that golden ring in 1998: tenure. I have also talked at length with many other legal writing professors over the past fourteen years who have been successful—or unsuccessful—with their own interviews, often at the same schools, so I offer here a quick guide to getting a first—or subsequent—directorship.

The mercenary reasons might lead someone to apply for a directorship position: the position often carries with it some power, more money, heightened status, and job security. Other practical reasons may come to mind. For example, your spouse or family may want to move because of a job or an interest in living in another part of the country. You may want to teach at a "better school" and move up the academic food chain. Or you may want more freedom to run the kind of program you want to run. If you are already teaching, you may want more bargaining leverage at your current school, or you may have a new dean coming in and things will be "different." It is even possible that your school may be interviewing people for your job, with or without an upgrade to the position.

A higher salary, heightened status, and greater academic freedom are more likely to be achieved if you move than if you stay where you are.<sup>174</sup> If you cannot “move on,” the chances are that your dean and faculty will take you for granted. The typical academic assumption is that “good” people go to “better” schools unless they have a very attractive package at the current school. If you cannot—or will not—move on, then even if your current dean values you he or she has little incentive to give you things for which you ask. This is even more true if your status is not one on a tenure track.

Although legal writing professors may think that a program’s director has power, this power is often illusory, and power is always relative. The life of a middle-level bureaucrat or administrator can be an uncomfortable one, and the writing program director often fits this description, having responsibility but not much power to make things happen. A candidate for a directorship must understand that a director is responsible for the actions of the other teachers in the program, much as the dean is ultimately responsible for the actions of all the professors at the law school. A director or dean gets headaches from everyone and cannot simply bask in the reflected glory of the faculty.<sup>175</sup> A director, much like a dean, must make difficult, and often unpopular, decisions or implement those made by others.

It is true, however, that law schools often give a “new” director more freedom to do things than the prior director enjoyed. Schools convince themselves that their national search for a new director meant they got the “best” person, who should receive deference in curricular design, even if the “old” and “new” directors actually proposed the same thing. A new director has no “history” within the school and does not inherit the same problems—or at least not the responsibility for them—and enjoys a “honeymoon” period. Many major changes in the staffing or structure of legal research and writing programs appear to take place when the director changes.<sup>176</sup> It is most likely, however, that such changes come after an intensive faculty review of the program or after a new dean assumes the leadership of the school.<sup>177</sup>

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174. See Levine, *supra* note 5, at 543.

175. The director is likely to field complaints from students, faculty, and administrators and must mediate constantly among competing interests. See Levine, *supra* note 1, at 615-18.

176. See *id.* (stating that uniformity among teachers is necessary and complex issues arise regarding staffing).

177. See SOURCEBOOK, *supra* note 1, at 1-3 (noting that the *Sourcebook on Legal Writing Programs* was geared towards faculty, directors, and deans).

The disadvantages of moving for a directorship should be understood as well.<sup>178</sup> The direct and indirect costs of moving can quickly mount up, and even if the school pays for the move, it still requires a good deal of cash. Furthermore, this can be a lonely job.<sup>179</sup> In short, becoming a director is risky, both personally and professionally.

## V. STRATEGIES AND TACTICS

If you have decided to apply for a new position, first find out the "scuttlebutt" by talking to your own director or other legal writing professors. An incumbent director who is leaving may be willing to share with you some critical information, or the directors of neighboring schools or officers of national legal writing organizations may have valuable information.<sup>180</sup>

After you have exhausted all informal sources of information, you should try to review all relevant official information you can get from the school, such as the catalogue (print and on-line),<sup>181</sup> committee re-

178. See Arrigo-Ward, *supra* note 16, at 595-96 (noting that directors' various roles may lead to stress and that personal stress management is essential).

179. Just how lonely a directorship will be cannot be appreciated until you have done the job. One friend of mine became the acting director of a program after working with two well-known experienced directors for seven years. She told me, after two months on the job, that she had no idea just how difficult the job was, and she had not appreciated what demands it would make of her, particularly the constant mediation among so many competing interests. There is also tension among the legal writing professorate about the role of directors, with at least one legal writing scholar suggesting that directors become invested in the hierarchical structure of the law school. See Joel R. Cornwell, *Legal Writing as a Kind of Philosophy*, 48 MERCER L. REV. 1091, 1112 (1997) ("Thus, law schools have begun to establish tenure-eligible directorships of writing programs, on the one hand elevating the status of writing, but on the other hand establishing a privileged class who will develop incrementally an interest in preserving the status quo."). But see SOURCEBOOK, *supra*, note 1, at 97-98. The *Sourcebook on Legal Writing Programs* provides:

But a number of schools have a different kind of director—one who coordinates rather than supervises. This type of director leads collegially—the way a department chairperson would in another part of the university—by identifying problems, suggesting solutions, and speaking for the program when the program needs to speak in a single voice, while handling some administrative responsibilities that are more efficiently carried by one person than by a group.

*Id.*

180. The officers of ALWD and LWI can be found in the front sections of the *AALS Directory of Law Teachers*, which is mailed to all law schools every fall for distribution to all full-time faculty members.

The LWI Web site provides general information about LWI and provides links to lists of officers, the board, and all members. *About the LWI* (visited Mar. 5, 1999) <<http://lawschool.lexis.com/faculty/lwi/index.html>>.

A listing of the officers of the Committee on Communication Skills of the ABA's Section of Legal Education and Admission to the Bar can be obtained from the Office of the Consultant on Legal Education to the American Bar Association, 550 W. North St., Suite 349, Indianapolis, Indiana 46202; telephone (317) 264-8340; fax (317) 264-8355; <<http://www.abanet.org/legaled>>.

181. The ABA Section of Legal Education and Admissions to the Bar has a Web site, with hypertext links to all ABA-accredited law schools' Web sites. See Section of Legal Education and Admissions to the Bar, ABA (visited Mar. 10, 1999) <<http://www.abanet.org>>

ports, and alumni magazines. Go online and search Westlaw, Lexis, and the Internet; in short, do your homework. One of the most important sources of information—a self-study prepared for the regular ABA accreditation process—is not a public document, but it is something you should ask to read if granted an on-campus interview.

If the school grants you an interview, talk to key faculty members beforehand. Your friends in law school teaching may know someone who can provide the “real story” about the history and basis of the search, who can explain the power structure of the school and tell you about the search committee and the deans. Ask many of your questions before you go to any interview, and ask the same questions of as many people as you can. Do not be surprised if the answers you get are often very different because this reveals a good deal about the players and the process.

During this fact-gathering process, you would probably be smart to reveal as little as possible about yourself beyond the printed résumé and what others may say about you. At the same time, keep the freedom to put together an interview agenda and presentation that respond to what you see as the school's needs and desires, allowing you to highlight your own talents and experiences.

If possible, find out who else has, or will be, interviewed for the job, and research the competition. Talk to other writing professors or directors to get their ideas about how you could pitch yourself and the pitfalls you can avoid. Mock interviews are a good idea,<sup>182</sup> for the same reasons you would suggest practices to your students before delivering their moot court arguments.

### A. *Preparing*

Whatever the advertised status of the position, try to get the interview process to be as much like the “normal” faculty hiring process as possible. The best strategy is to act as if you are a “real” faculty member from the start. Insist on delivering a faculty workshop presentation as if you are a candidate for a tenure-track position. Fly to town the day before and leave the day after, if not later, and include time to take a good look at the town and surrounding area. It is likely you will have at least one dinner with the committee, although some schools not offering a position on the tenure track may try to fly candidates in and out in one day. Everyone with whom I have ever discussed this (doctrinal faculty, deans, legal research and

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/legaled>. The section also publishes a newsletter, *Syllabus*. For information, contact the ABA Section of Legal Education and Admission to the Bar, 750 N. Lake Shore Dr., Chicago, Illinois 60611; telephone (312) 988-5674; fax (312) 988-5681.

182. At Temple, we conduct practice interviews for the graduate fellows who will be attending the Meatmarket, and they always report having found them very helpful.

writing professors, and directors alike) is unanimous in advising candidates to insist on being treated properly. If the school treats a candidate as a second-class citizen during the interview, the treatment is not likely to improve afterwards. Even if the position is not tenure track, the wise candidate should act as if it were and push for a process that mirrors what the faculty uses for hiring "real" faculty members. Otherwise, the candidate risks being seen as a decanal appointee, an administrator, or even a former student, that is, a temporary and second-class member of the community.

Remember as well that you are interviewing them. This is a two-way process, and if you appear desperate or willing to settle for any old job you will probably lose points in the process (or worse, you are setting yourself up to be taken advantage of). Paradoxically, the more the faculty and administration realize that you are not begging for the job, and that they have to please you to get you interested, the better off you will be, and interestingly enough, they will be more interested in getting you. This business of "playing hard to get" is part of a ritualized courtship, and schools are used to this behavior by prime candidates for tenure-track appointments.

Do not be afraid to tell the school that something they are doing, or something they expect the director or school to do, is unworkable. They are interviewing you in part because they know (perhaps subconsciously) that you are the expert, and they are not. A touch of professional confidence, carried off with some style and flair, without ego and bluster, can be very impressive. You are setting the tone for your future relationships during the interview, and their first impressions of you are critical.

Do not be afraid to ask a good many questions, but be sure they are ones that show your expertise and that you have studied the school carefully.<sup>183</sup> Let them tell you what they think they want, instead of having to respond in a vacuum to their questions. The faculty will often forget that you do not know what they know! Be a good listener and react thoughtfully.

Be sure you have an opportunity to talk to the dean, associate dean(s), librarians, and students, not just to the faculty committee. Take charge of your agenda if you can because the committee may not be terribly competent, may not understand which members of the law school community you need to meet, and may even want to keep you from meeting certain people. Insist on a tour of the building, the library, and the campus. Make sure you meet all the current legal research and writing professors, whether they are full-timers,

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183. Unfortunately, a candidate's lack of interest or preparation is common in many law school interviews. See Zillman et al., *supra* note 7, at 354.

adjuncts, graduate students, or teaching assistants. I have been shocked that people who were interviewing for directorships did not insist on meeting the existing legal research and writing professors.

Ask for an opportunity during the day to review information that they did not send you before, such as an ABA self-study report. If the interview is a one-day event, try to talk to the dean at the end of the day, not earlier, because the dean will often respond to you in a way that reflects how well (or how poorly) the faculty reacted to you. Remember the dean usually does not act in a vacuum. An alternative may be to try to have breakfast with the dean and end the day with an exit interview. It is a bad sign if the dean will not oblige. If possible, reschedule your trip or stay over to meet him or her.

After all of this, you may feel you do not want the job. If so, wait for a few days to be certain it is not the one for you and withdraw from consideration. Not only is this a professional way of conducting business, it is also quite a good move for you in the long run. First, you should not keep your name in the hat if you know you will not accept an offer. Second, you should not risk being rejected for a job you did not want anyway; the academy is a small world, and people may find out another school rejected you (and they may look hard for the reasons). Finally, if you withdraw, do the other candidates a favor and tell the school why. It may help the school to gain some insights into their situation, and it may help the person who eventually lands that appointment.

### *B. Negotiating*

I should not have to remind lawyers how to negotiate, but for some reason all training and critical skills often disappear when a lawyer receives an offer for a teaching position. Find out everything you can about the administrative and salary structure before you have an interview (or at least before you get an offer). You should have available all possible information about salary, teaching load, workload, and administrative support at "peer" legal research and writing and local schools. You can get that information by calling directors and by reading the LWI and ALWD surveys,<sup>184</sup> looking at the Society of American Law Teachers (SALT) salary survey,<sup>185</sup> and

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184. A national survey of legal writing professors is now being conducted yearly by ALWD and LWI. The survey details status, workload, salary, and related issues; it covers directors and other professors of legal writing. The 1997 and 1998 surveys were coordinated by Professor Louis Sirico of Villanova University. Professor JoAnne Durako of Rutgers University (Camden) will undertake this task for 1999.

185. SALT publishes a newsletter, *The SALT Equalizer*, and conducts a salary survey. Copies of the 1997 SALT survey are on file with the author, or are available directly from SALT, University of New Mexico School of Law, 1117 Stanford Dr. N.E., Albuquerque, New

searching the on-line databases for information (especially if the school is a public institution). Unfortunately, the ABA does not collect salary data since signing a consent decree to settle an antitrust lawsuit brought by the United States Department of Justice.<sup>186</sup>

It would not be unusual to end up with a salary higher than originally offered but securing the same benefits package and voting rights as the rest of the faculty may be harder. You should also ask for a copy of the faculty procedures for appointment, review, reappointment, promotion, and tenure;<sup>187</sup> ask too for the rules governing attendance at faculty meetings and voting rights. Determine where you would be within the school's hierarchy and what you would have to do for promotion and tenure, if applicable, or for an alternative form of job security. However, because the school probably has not devoted any serious thought to how they will apply the standards and expectations for doctrinal faculty to legal writing professors, you may have to get some agreement to have the issues explored after you arrive (with your involvement, of course).<sup>188</sup>

Find out if you will have a budget for the program. If so, calculate whether the administration is giving you a commitment of financial and administrative resources that are sufficient for your plans; mere promises about future support may not be enough. Ask if the school is in the habit of creating oversight committees to deal with things like the writing program, and the degree to which the administration and faculty will defer to your expertise and that of the other writing professors.

Be sure that you know all you can about the full compensation package, including any faculty perks that the school offers the faculty, such as research assistants, professional development stipends, summer teaching, sabbaticals, summer grants, requirements for earning merit raises, and salary increments for promotion. Be sure you get a written commitment about the benefits that accompany your position. You may have to call the university personnel office

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Mexico, 87131-1431. The current information on SALT's officers can be found in the "Other Organizations" section in the front of the *AALS Directory of Law Teachers*.

186. See *United States v. ABA*, 934 F. Supp. 435, 436 (D.D.C. 1996) (prohibiting the ABA from "collecting from or disseminating to any law school data concerning compensation paid or to be paid to deans, administrators, faculty, librarians, or other employees; [and] . . . using law school compensation data in connection with the accreditation or review of any law school"); see also George B. Sheperd & William G. Sheperd, *Scholarly Restraints? ABA Accreditation and Legal Education*, 19 *CARDOZO L. REV.* 2091, 2154 (1998).

187. See *STANDARDS*, *supra* note 54, Standard 405(b) & Interpretation 405-3 (stating that law schools should establish policies regarding academic freedom tenure).

188. See *SOURCEBOOK*, *supra* note 1, at 115-17 (discussing potential models for faculty and director structure); Levine, *supra* note 5, at 544-48 (noting significant variables among professionals, such as separate tracks versus undifferentiated tenure, tenure criteria, and administration characteristics).

directly so you know the possibilities before you negotiate with the dean. Remember that the school's junior faculty will often want you to get as much as possible out of your negotiations because then they can also get more the next time they negotiate; on the other hand, the senior faculty may not be as helpful in supplying you with information. The junior faculty may be the most familiar with the current negotiation process and can tell you much about the dean's style and strategy.

Particularly if they offer you an appointment as the program director, be sure to research the school's history and the university's administrative personnel structure. Understand what structures exist for parallel programs, such as the law school clinic. Start by making allies, not enemies, with those professors in other "departments" in the law school. You are competing for resources, so try to make your successes something that also give them a better stance, not a worse one.

If you are already in teaching, your potential new dean will probably call your current dean to ask about your current salary and your own negotiation style, so you might as well try to enlist your current dean as a negotiating ally. If you are moving up in the law school food chain, your dean will not mind helping you advance your career; it is even likely he may claim the credit for your advancement. The "new" dean may want to talk to a senior legal research and writing director for information to support what you are seeking, and you should be ready to supply the dean with names of the senior people in the field who know what constitutes a good program and what salaries are commanded by people in the field.

Be firm in your negotiations; do not equivocate. Have lists of items that are negotiable or not negotiable and that you have ranked. Keep the whole process very organized, and keep written records of everything. Confirm critical details in writing. Having someone who is not involved and who can act as a mentor would be helpful. Another professor or a director with experience can help you by providing an outsider's perspective on your situation. Of course, as in all negotiations, be ready to ask for some things you know you cannot or will not win. Be prepared to give ground on items you can live without so you may get other things you really need. The dean will expect this, and it will set the tone for all future negotiations. The committee chair can be a real ally. Ask that person, and also the other committee members, to talk to the dean to explain why what you want is critical to the program and to the success of the search; after all, if the school hires you, the committee has done a good job.

Do not forget to ask about committee assignments;<sup>189</sup> grants for the current summer and the next summer; timetables for position upgrades; commitments for teaching load limitations; a commitment that you can teach other non-writing courses; support for upcoming conferences; a trip with your family to look for a home; reimbursement of moving expenses; a specific date to go on salary; the effective date of your coverage for health care coverage; when (and if) they will make TIAA/CREF retirement contributions (and when they will vest); and the practical parts of your contract (such as whether the school will pay your salary on a nine, ten, or twelve month schedule).

### C. *Bargaining for the Writing Program: Special Concerns for Directors*

During the visit to the school, a person interviewing for a directorship should have asked the current legal research and writing professors what they want and made that part of his or her own negotiations. A wise director comes in benefitting the other teachers because of having accepted the job. If a school offers you a director position, you may find yourself negotiating about the program and other teachers to an extent greater than about your own position. Get used to this posture and try to improve the other writing professors' lot before you deal with your own situation. The total is likely to cost the school more than your own salary, and you can more easily get what you want than if you started with your own wants and needs.

You are likely to have access to better data than the dean and faculty, and you can take advantage of this to impress them that you are the legal research and writing professional. Have available the latest data on workload, salary, and status for peer schools. You will find the data in the ALWD survey and the LWI survey, and you can supplement the surveys by using the Internet discussion lists.<sup>190</sup>

### D. *Planning for the Future*

Particularly if you are a director, you need to plan for some immediate results (successes, of course) in the first year, or even more quickly.<sup>191</sup> First impressions count. Your first year is a critical one,

189. Ask for critical appointments during your first year as director, such as appointments to the Legal Writing Committee and the Curriculum Committee. If you are not on those committees, you may have some unpleasant surprises in store for you because those committees may have some oversight of your program.

190. See *supra* notes 16, 149, 151.

191. Examples of actions with immediate results include changing the grading policy, implementing a new moot court program, and teaching an upper-division advanced legal writing course.

and if the faculty and dean do not see things in a positive light right from the beginning, you will have a tougher road ahead. If things work out quickly (i.e., if people are happy during your "honeymoon" period), then you will have the credibility you need to achieve other goals.<sup>192</sup> You must deal with real problems immediately. Do not wait for things to get better because they will not. You will not have the advantage of the honeymoon period later.

Try to learn who stands to benefit from your success. Typically this will include the dean and the professors who were on the committee that recruited you. Always consult them, before and after you get the job. Talk with them about problems and solutions. Ask for advice, and listen when they offer it, even if you plan to do something different. Have others ready to advance your case, particularly with the dean. In short, do not operate in a vacuum.

## VI. CONCLUSION

Several years ago, *The Second Draft* devoted an entire issue to short answers to the question "What advice you would offer if your best friend wanted to teach legal writing?"<sup>193</sup> The twelve pages of that issue are full of practical, pointed, and poignant advice about the pleasures and problems of teaching legal writing. While reading and rereading the entire issue is well worth the time of anyone considering entering the field, the last piece of advice bears repeating here:

You'll have to figure out why you want to do this. Every year I review applications from people wanting to teach in my program (I usually interview a few every year because of turnover) and I see patterns in the letters. Some people are running away from their current job and want to do anything else, even teach something they haven't thought much about in a place that they can't even find on a map.

Others are looking for what they think is an undemanding academic appointment which will give them a toehold in a school and the chance to write, in their spare time, a revolutionary and brilliant law review article that will result in accolades from all of the nation's law schools.

Others would like to share with students and faculty the benefits and acquired wisdom of 30 years of law practice while they enjoy the role of a gentleman farmer and dabbler in academe. A few want to teach freshman English courses to law students. Very

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192. See Levine, *supra* note 1, at 639.

193. *What Advice Would I Give if My Best Friend Wanted to Become a Teacher of Legal Research and Writing?*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 1 (providing advice from current legal writing professors to aspiring legal writing professors).

few are committed to becoming legal writing professionals. Forget about all but the last group; they are the survivors and the ones who are worth knowing and emulating.<sup>194</sup>

I hope you join us.

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194. *The Final Word*, SECOND DRAFT (Legal Writing Institute, Tacoma, Wash.), Mar. 1994, at 12. I meant these words when I wrote them, but I was advised to take my name off the piece. I no longer need heed that advice.