

SPRING 2022: UNENDING CONVERSATION

STETSON LAW REVIEW FORUM

The Legal Writing Community's Bonds Enable It to Flourish

Amy H. Soled*

I. INTRODUCTION

Professor Kevin Bennardo's article entitled, *Legal Writing's Harmful Psyche*,¹ challenges the core values of the legal writing community. While his fundamental argument is that the legal writing community should focus less on legal writing equity issues and more on scholarly debate, he neither supports this argument nor examines the interrelationship between the two. Moreover, following Professor Bennardo's advice would likely undermine many of the strides legal writing professors have made over the last two decades; indeed, legal writing professors would once again become isolated, alienated, and silenced, possibly destroying the discipline.

By way of background, the legal writing community is comprised of professors who teach legal writing, the vast majority of whom are women.² As Bennardo concedes, "legal writing faculty are generally afforded lesser status in legal academia."³ When the ABA required that law schools offer "at least one rigorous writing experience" to secure accreditation, they began to adopt formalized legal writing programs⁴ but did not offer teaching and scholarship support for legal writing faculty. In response, those in the legal writing academy formed the Legal Writing Institute ("LWI") and the Association of Legal Writing Directors ("ALWD") to provide such support and to advocate on behalf of their membership.⁵

*© 2022, Amy H. Soled. All rights reserved. Amy H. Soled is a Clinical Associate Professor of Law at Rutgers Law School. The author wishes to thank Ruth Anne Robbins for her insights, guidance, and support and Kim Holst for her research help. The author also thanks her husband, Jay Soled, who always makes time to provide helpful edits.

¹ Kevin Bennardo, *Legal Writing's Harmful Psyche*, 105 MINN. L. REV. 112 (2020).

² Seventy percent of legal writing professors are women. See Amy H. Soled, *Legal Writing Professors, Salary Disparities, and the Impossibility of "Improved Status,"* 24 J. OF LEGAL WRITING 47, 48 (2020) (citing Jo Anne Durako, *Second-Class Citizens in the Pink Ghetto: Gender Bias in Legal Writing*, 50 J. OF LEGAL EDUC. 562, 562 (2000)); see also Teri A. McMurtry-Chubb, *On Writing Wrongs: Legal Writing Professors of Color and the Curious Case of 405(c)*, 66 J. OF LEGAL EDUC. 575, 582 (2017).

³ Bennardo, *supra* note 1, at 124.

⁴ Ruth Anne Robbins, Kristen K. Tiscione & Melissa H. Weresh, *Persistent Structural Barriers to Gender Equity in the Legal Academy and the Efforts of Two Legal Writing Organizations to Break Them Down*, 65 VILL. L. REV. 1155, 1157 (2020).

⁵ In 1985, LWI formed after a national conference, and ALWD was created eleven years later. Robbins, *supra* note 4, at 1179.

Since their establishment, LWI and ALWD have provided a fostering community for legal writing scholars. Bennardo demonizes this community finding that it creates a “norm of protectionism,”⁶ which thwarts criticism, thereby preventing the discipline’s growth.⁷ But solidarity should not be vilified; to the contrary, it has enabled the legal writing community to thrive, with its members developing professionally and intellectually. Because the legal writing community emotionally and financially supports its members, innovative pedagogical techniques and scholarship are generated, influencing the discipline and positively shaping legal education.

This essay is organized as follows. First, it objectively presents Bennardo’s core arguments. Second, it evaluates these arguments. Third, it discusses what the legal writing community is and postulates what it should be. Fourth, it concludes by encouraging the legal writing community to continue along its current path, one that bolsters confidence, instills trust, and fosters meaningful scholarship.

II. BENNARDO’S CORE ARGUMENTS

Bennardo’s central thesis is that the legal writing discipline stymies its own growth because its members provide “unfailing support” to one another, preventing critical evaluation, a necessary component of academia. Although he attributes this solidarity to the community’s “self-perception” of being “victims of unfair treatment” by the Legal Academy, he acknowledges that “no one debates the premise that legal writing faculty are generally afforded lesser status in legal academia.”⁸

Bennardo avers that the litany of grievances lodged by the legal writing community is self-defeating: gripes about low pay, lack of institutional support, heavy teaching and service loads, and job insecurity, are ingrained into the fabric of the discipline. These grievances make legal writing professors feel like victims, and, consequently, they refuse to criticize each other. Bennardo supports his claim of protectionism with three pieces of evidence: (1) a newsletter that used a family metaphor to describe the legal writing community; (2) an essay written by Charles Calleros, describing his thought process behind a presentation he gave at a legal writing conference; and (3) an unnamed conference presenter who refused to provide the name of someone in the field who was giving bad advice.

First, Bennardo points to the summer 2019 newsletter for the Section on Legal Writing, Reasoning, and Research for the Association of American Law Schools (AALS-LWRR), which celebrated “the theme of the legal writing discipline as

⁶ Bennardo, *supra* note 1, at 120.

⁷ *Id.*

⁸ *Id.* at 112, 124. While Bennardo initially claims that he neither disagrees nor supports the merits of these claims but only that they exist and are harmful, later in the essay he concedes that legal writing faculty are generally afforded lesser status in the legal academy. *Id.* at 124.

‘family.’”⁹ In this newsletter, the then chair of the section wrote that the legal writing community had a family-like nature, and, like a family, “focuses on love and support.”¹⁰ Bennardo suggests that in using a family metaphor, the AALS section president was really implying that there is a “family-before-duty” mentality within the discipline.¹¹

Second, Bennardo then highlights an essay contained within this newsletter, in which legal writing Professor Carlos Calleros explains why he decided to present his “bizarre” idea at a writing conference,¹² describing the legal writing community as “an academic community so steeped in thoughtful pedagogy [that it] would be open to a metaphoric exploration of pedagogy and would be drawn to an unusual method of presentation—or at least would be forgiving.”¹³

Finally, Bennardo refers to a national legal writing conference in which an unidentified speaker refused to pinpoint another member of the community who had given poor legal writing advice.¹⁴ The speaker declined to provide the name, commenting that to do so would run “counter to the extremely collegial nature and supportive culture within the discipline.”¹⁵

Bennardo opines that this self-protective attitude that prevails in the legal writing community prevents legal writing professors from building the discipline through critical engagement with legal writing scholarship, resulting in the community’s inability to “distinguish among the quality of ideas, [which will] over time, deter legal writing professors from doing the labor necessary to produce strong scholarship.”¹⁶ He concludes that “[s]hielding substandard work from criticism begets more inferior work,”¹⁷ preventing the discipline’s growth.

For the legal writing community to prosper, Bennardo recommends that it must endure change. Chief among the reforms he advocates for, is to shed self-pity and engage in scholarly discourse. Having a changed mindset would, in his words, create a “healthy and robust discipline – which could, in turn, lead to the type of advancement they [legal writing professors] feel they have been unfairly denied.”¹⁸ Bennardo contends that to develop the legal writing discipline, legal writing professors should spend less time complaining about external factors and more time using its energies toward internal reform.¹⁹ Advocating for a better balance between criticism and support

⁹ *Id.* at 118 (citing Wendy-Adele Humphrey, *From the Chair*, SECTION ON LEGAL WRITING, REASONING, AND RESEARCH NEWSLETTER, Ass’n Am. L. Sch., Chicago IL Summer 2019, at 1).

¹⁰ *Id.*

¹¹ *Id.* at 121.

¹² *Id.* at 119.

¹³ *Id.*

¹⁴ *Id.* at 119–20.

¹⁵ *Id.* at 120.

¹⁶ *Id.* at 122.

¹⁷ *Id.*

¹⁸ *Id.* at 112.

¹⁹ *Id.* at 124.

within the discipline, Bennardo instructs legal writing professors to produce scholarship that responds to and notes the shortcomings of other legal writing scholarship.²⁰

III. FLAWS IN BENNARDO'S ARGUMENTS

Bennardo accuses the legal writing community of solidarity, which he concludes leads to protectionism. Bennardo's claim that an entire discipline is protectionist is daring, and the cherry-picked anecdotal evidence upon which it is based must be scrutinized. That scrutiny reveals that his argument is flawed for several reasons. First, his evidence does not support his claim. Second, existing scholarship contradicts the assertion that legal writing professors do not engage in scholarly debates. Third, he rests his argument on faulty logic, further making his thesis unconvincing and ineffectual.

A. The Evidence Bennardo Sets Forth Does Not Support His Claim

First, Bennardo does not show how the use of the word "family" to describe the community in the 2019 newsletter equates to protectionism. Like a family, the legal writing community has a shared identity, inherent trust, and mutual respect. But while families may be supportive, this does not mean they refrain from constructive criticism. Might family members protect each other? Sure. But use of a metaphor, without more, does not prove protectionism. In fact, Bennardo, not the newsletter, sets forth the "family-before-duty" idea, and he advances no evidence to justify his leap from "family" to the more sinister "family-before-duty."

Second, Bennardo's second piece of evidence—Calleros's essay—does not show protectionism. Calleros never suggested that forgiving means shying away from public criticism, nor does he ever speak of not being criticized. To the contrary, Calleros insinuates that he could be himself with other legal writing professors—comfortable to present something unusual because he could summon "the courage to take the risk" since he knew "that participants . . . would come with creative, lively, open minds." Calleros could push the boundaries of thought, indicia of a healthy discipline, not evidence of protectionism. Inaccurately declaring that the legal writing community validates all ideas,²¹ Bennardo relies on Calleros's presentation, which involved audience participation in learning a complicated dance.²² Calleros wanted the audience to understand how first-year law students feel when they learn the law—awkward, clumsy, and unsure how to navigate. Law professors throughout the

²⁰ *Id.* at 123.

²¹ *Id.* at 125 (suggesting that if an idea is too bizarre for other disciplines, it should not belong in the legal writing discipline. He claims that "[l]egal writing should not be an intellectual safe space where all ideas are validated.").

²² See Charles R. Calleros, *Reading, Writing, and Rhythm: A Whimsical, Musical Way of Thinking About Teaching Legal Method and Writing*, 5 LEGAL WRITING 2 (1999).

country emulated and adopted Calleros's revolutionary idea²³ of using nonlegal analogies to help students understand basic legal analysis skills, making Calleros a forerunner in the field of such pedagogical methods.²⁴ The legal writing community does not validate all ideas as Bennardo opines, but rather it provides fertile ground for novel ideas to flourish.

And a speaker's refusal to reveal an identity exemplifies pure scholarly discourse, which challenges ideas not people. True protectionism would have shielded the idea, stymieing growth within the discipline. Moreover, this evidence illustrates the interrelationship between status and scholarly discourse, something that Bennardo does not address.

Thus, the three pieces of evidence of "protectionism" that Bennardo sets forth do not prove protectionism. Two examples—the newsletter and Calleros's essay—show that the family atmosphere of the legal writing community has not only enabled individual growth but has promoted growth of the discipline. Bennardo's third piece of evidence—someone's refusal to specify who had given bad advice—not only illustrates respectful, scholarly discourse but suggests that status issues influence intellectual discussion.²⁵ Bennardo posits that protectionism is the reason the legal writing discipline does not have enough scholarly dialogue,²⁶ but as much as Bennardo wants to remove "status" from the table, it is an ever-present, annoying guest that negatively impacts the discipline.

B. Bennardo's Claim Is Factually Inaccurate

Bennardo's conclusion that legal writing professors do not criticize or question each other's work²⁷ within the discipline is simply wrong. Legal writing scholarship that evaluates and challenges the work of others is commonplace, and existing scholarship contradicts Bennardo's claim that, ". . . the Applied Legal Storytelling movement [has grown] unchecked within the legal writing discipline . . ."²⁸

Of the plethora of examples that exist, the following reveal that legal writing professors do not unilaterally agree and genuflect in each other's presence:

²³ See Sue Liemer, *Being a Beginner Again: A Teacher Training*, 10 PERSPECTIVES (Winter 2002); see also William Foster & Emily Grant, *Memorializing the Meal: An Analogical Exercise for Transactional Drafting*, 36 HAWAII L. REV. 403 (2014).

²⁴ Foster & Grant, *supra* note 23, at 410.

²⁵ For example, legal writing scholars might be reluctant to impugn colleagues because such an act could negatively affect employment since most legal writing professors are untenured.

²⁶ Bennardo fails to consider that many legal writing professors wear many hats, producing scholarship in lots of areas of law, not just legal writing, thereby affecting the amount of scholarly discourse within the discipline. See *infra* p. 10.

²⁷ Bennardo cites to the scholarly discourse between Professor Kristen Robbins-Tiscione and Professor Kirsten Davis as an example of what he would like to see more of, claiming that such dialogues do not happen enough. Bennardo, *supra* note 1, at 123.

²⁸ *Id.* at 126.

- Professor Christy H. DeSanctis challenged the Applied Legal Story Telling (“AppLS”) movement by condemning “the forced binary between logical reasoning” (traditional form of legal reasoning) and narrative reasoning.²⁹ Instead, DeSanctis advocated that logical and narrative reasoning overlap, and the latter “extends well beyond the category of emotional appeal.”³⁰
- Professor Linda Edwards warned Professor Stephen Paskey and others of the shortcomings associated with creating new definitions or choosing one definition of a term over another to prove a thesis.³¹
- Professor Kathryn Stanchi criticized Professor Melissa Weresh for giving Standard 405(c), an American Bar Association measure that requires law schools to provide job security to clinical faculty members,³² “a dignity and legitimacy it doesn’t deserve.”³³
- Professor Helena Walen-Bridges challenged legal writing scholars to consider negative factual portrayals to persuade rather than solely focusing on positive narratives.³⁴
- Professor Teri A. McMurtry-Chubb confronted the entire legal writing academy because of its failure to promote diversity among legal writing directors.³⁵

²⁹ Christy H. DeSanctis, *Narrative Reasoning and Analogy: The Untold Story*, 9 LEGAL COMM. & RHETORIC 149, 153 (2012); “Applied legal storytelling ‘examine[s] the use of stories –and of storytelling or narrative elements–in law practice, in law school pedagogy, and within the law generally.’” See Bennardo, *supra* note 1, at 126 n.68 (quoting J. Christopher Rideout, *Applied Legal Storytelling: A Bibliography*, 12 LEGAL COMM’N & RHETORIC, 247, 248 (2015)).

³⁰ DeSanctis, *supra* note 29, at 150. Specifically, DeSanctis criticized Professor Kenneth Chestek for arguing that narrative is necessary since logic alone cannot create new law. *Id.* at 150, n.3; *see also* Derek H. Kiernan-Johnson, *A Shift to Narrativity*, 9 LEGAL COMM. & RHETORIC 81, 93 (2012) (positing that AppLS’s storytelling focus is too narrow and should instead focus on “narrativity,” defined as “a top-level quality of legal text or performance”); *see also* Jeanne M. Kaiser, *When the Truth and the Story Collide: What Legal Writers Can Learn From the Experience of Non-Fiction Writers About the Limits of Legal Storytelling*, 16 J. LEGAL WRITING INST. 163, 165 (2010) (scolding legal writing scholars, reminding them that they were ethically obligated to be factually accurate and that a “too-enthusiastic embrace of the power of storytelling might ... be too close to the line between brief writing and fiction”).

³¹ Linda Edwards, *Speaking of Stories and the Law*, 13 LEGAL COMM. & RHETORIC 157, 169 (2016) (criticizing Stephen Paskey’s article, *The Law is Made of Stories: Erasing the False Dichotomy Between Stories and Legal Rules*, 11 LEGAL COMM. & RHETORIC 51 (2014)).

³² *See* Melissa H. Weresh, *Best Practices for Protecting Security of Position for 405 (c) Faculty*, 66 J. OF LEGAL EDUC. 538 (2017) (suggesting best practices for protecting positions of law school faculty employed under ABA Standard 405 (c)).

³³ Kathryn Stanchi, *The Problem with ABA Standard 405(c)*, 66 J. OF LEGAL EDUC. 558 (2017).

³⁴ Helena Whalen-Bridge, *Negative Narrative: Reconsidering Client Portrayals*, 16 LEGAL COMM. & RHETORIC 151, 152 (2019).

³⁵ McMurtry-Chubb, *supra* note 2, at 582 (noting that “no consistent programming or formal professional development opportunities [at ALWD and LWI conferences] have been specifically geared to people of color.”).

- Professor Judith B. Tracy argued that in teaching legal analysis and writing, professors need to use various writing samples to teach good organization rather than simply rely on formulas, like issue, rule, application, conclusion, commonly referred to by its acronym, IRAC.³⁶

These are only a few instances of legal writing scholars engaging in academic debate. Bennardo correctly notes that “[m]embers of an academic discipline have a duty to identify the ideas that work and the ones that do not.”³⁷ The foregoing examples vividly illustrate that legal writing professors act neither monolithically nor in lockstep.³⁸

Beyond written scholarship, legal writing conferences offer another forum for participants to critically engage. For more than a decade, the LWI Biennial Conference has sponsored sessions to promote and encourage dialogue and debate on “hot topics.”³⁹ Furthermore, contrary to Bennardo’s assertion that anyone can present anything at a legal writing conference,⁴⁰ most legal writing conferences require interested presenters to submit complete detailed proposals, and conference committees reject many submissions.⁴¹ For example, LWI’s Biennial Conferences require a comprehensive proposal submission in advance of the conference, and between forty and fifty percent of the received proposals are rejected.⁴² And, contrary to Bennardo’s claim⁴³ that “issues relating to status are routinely raised [at legal writing conferences],”⁴⁴ the subject matter of presentations is often unrelated to status issues. Bennardo supports his claim by providing three examples of status-related conference topics, but he does not examine the proportionality of these topics compared to others. In fact, a perusal of past ALWD Biennial Conferences reveals varied themes like differences and similarities in legal writing programs⁴⁵ and best practices in teaching, management, and scholarship.⁴⁶ Similarly, recent LWI One-Day workshop

³⁶ Judith B Tracy, “*I See and I Remember; I Do and Understand*”: *Teaching Fundamental Structure in Legal Writing Through the Use of Samples*, 21 *TOURO L. REV.* 297, 313 (2006).

³⁷ Bennardo, *supra* note 1, at 121.

³⁸ It has not yet been explored how legal writing scholars react when challenged, but this is a subject to be analyzed at another time.

³⁹ *Call for Proposals for the 14th Biennial Conference of the Legal Writing Institute*, LEGAL WRITING INST., <https://raymondward.typepad.com/files/call-for-proposals.pdf> (last visited April 11, 2022). Originally dubbed popcorn series, these sessions were renamed coffee sessions.

⁴⁰ See Bennardo, *supra* note 1, at 122 (stating that “if every article and conference presentation receive the same chorus of ‘good jobs’ and a pat on the head—then there is no incentive to push to create truly good ideas”).

⁴¹ This author has had proposals rejected.

⁴² LWI Biennial Conference information from Kim Holst, former president of the Legal Writing Institute (discussed during a verbal conversation between the Author and Kim Holst).

⁴³ Bennardo, *supra* note 1, at 116.

⁴⁴ *Id.* at 116.

⁴⁵ *2021 Biennial Conference*, ALWD, <https://www.alwd.org/past-conferences/2013-biennial-conference> (last visited April 11, 2022).

⁴⁶ *Id.*

topics included the advantages and disadvantages of using technology in the legal writing classroom,⁴⁷ helping students overcome imposter syndrome,⁴⁸ and implementing simulations in online/hybrid legal writing courses.⁴⁹ Equity issues simply do not predominate the topic themes of these conferences.

1. *Flawed Logic*

Bennardo's argument is illogical in that it rests on faulty syllogism. A syllogism is a common form of deductive reasoning⁵⁰ by which a conclusion is drawn from two given or assumed propositions, called premises. If one accepts the premises, then one must accept the conclusion.⁵¹ For example, consider the following syllogism:

- (1) Every human is mortal;
- (2) Keesha is human;
- (3) Therefore, Keesha is mortal.⁵²

Valid syllogisms ensure sound arguments.⁵³ For a syllogism to be valid, there must be three terms of comparison and the conclusion cannot contain a term that was not in the premises.⁵⁴ Bennardo's argument—legal writing professors hurt the discipline because they do not publicly criticize each other—relies upon the following faulty syllogism:

- (1) Writing professors view themselves as victims;
- (2) Blame cannot be cast upon victims;
- (3) Therefore, writing professors do not criticize each other.⁵⁵

As written, this is an invalid syllogism because syllogisms must contain three terms or ideas of comparison,⁵⁶ and Bennardo's syllogism contains more than three: writing professors, victims, blame, and criticize. In addition, the conclusion he reaches introduces the concept of *criticism*, which does not exist in the first two premises, leading to an unsupported deduction.

Beyond these logical flaws, Bennardo's syllogism rests on two speculative factual premises. More specifically, "writing professors view themselves as victims" is

⁴⁷ *Rutgers Law Hosts Conference on Technology and Teaching*, RUTGERS LAW SCHOOL (Jan. 20, 2020), <https://law.rutgers.edu/news/rutgers-law-hosts-conference-technology-and-teaching>.

⁴⁸ *One-Day Workshops*, LEGAL WRITING INST., https://www.lwionline.org/sites/default/files/NE%20LWI%20OneDay%20Conference%20Schedule.Dec_%202020_0.pdf (last visited April 11, 2022)

⁴⁹ *Id.*

⁵⁰ *Reasoning*, UNIV. OF PITTSBURGH, <https://www.comm.pitt.edu/reasoning> (last visited April 11, 2022); see also KRISTEN KONRAD ROBBINS-TISCIONE, *RHETORIC FOR LEGAL LAWYERS: THE THEORY AND PRACTICE FOR ANALYSIS AND PERSUASION* 114 (West Academic 2d. ed., 2009).

⁵¹ ROBBINS-TISCIONE, *supra* note 50, at 114–15.

⁵² *Id.* at 115.

⁵³ Alina Bradford, *Deductive Reasoning vs. Inductive Reasoning*, LIVESCIENCE, (July 24, 2017), <https://www.livescience.com/21569-deduction-vs-induction.html>.

⁵⁴ ROBBINS-TISCIONE, *supra* note 50, at 114.

⁵⁵ Bennardo, *supra* note 1, at 120.

⁵⁶ ROBBINS-TISCIONE, *supra* note 50, at 114.

overgeneralized; writing professors are not a monolithic group and asserting that everyone within this group consider themselves to be victims is misguided. Indeed, the fact that many writing professors discuss and address issues of status and pay, does not mean that legal writing professors universally label themselves as victims. The second factual premise—“victims cannot be blamed”—is disputable as well. Victims of crime, for example, are sometimes tacitly blamed by juries and others for wearing provocative attire or adorning themselves with expensive jewelry that results in temptation.⁵⁷ Resting on faulty premises, Bennardo’s conclusion—“writing professors do not criticize each other’s work”—is a non sequitur, as it is unrelated to the premises.⁵⁸ Thus, his argument is illogical.

IV. WHAT THE LEGAL COMMUNITY IS AND SHOULD CONTINUE TO BE

Three national organizations – ALWD, the LWI, and AALS LWRR – have helped organize the legal writing community. Although these organizations have “coordinated their status-related advocacy efforts on behalf of legal writing professors,”⁵⁹ they have a much broader agenda. By way of example:

- LWI supports the development of teaching and scholarly resources and establishes forums to discuss the study, teaching, and practice of professional legal writing.⁶⁰
- ALWD serves its members through its publications, conferences, resources, including teaching and scholarship grants, and an annual survey.⁶¹
- AALS LWRR “promotes the communication of ideas, interests, and activities among the members.”⁶²

Together, these organizations have helped to improve the status of legal writing faculty⁶³ and to promote legal writing scholarship.⁶⁴ Prior to the formation of LWI and

⁵⁷ *The Canadian Resource Center for Victims of Crime*, VICTIM BLAMING (Aug. 2009), https://crcvc.ca/docs/victim_blaming.pdf.

⁵⁸ A nonsequitur fallacy is when a conclusion does not logically flow from the premise. See ROBBINS, *supra* note 50.

⁵⁹ Bennardo, *supra* note 1, at 114.

⁶⁰ LWI is “a nonprofit organization dedicated to improving legal communication. [It] believe[s] that effective legal communication is critical to the wellbeing of society, the judicial system, and the legal profession.” LEGAL WRITING INST., <https://www.lwionline.org/> (last visited April 11, 2022).

⁶¹ *About ALWD*, ASSOC. OF LEGAL WRITING DIRECTORS, <https://www.alwd.org/about> (last visited April 11, 2022).

⁶² *Section on Legal Writing, Reasoning, and Research*, ASS’N OF AM. L. SCH., <https://www.aals.org/sections/list/legal-writing-reasoning-and-research/> (last visited April 11, 2022).

⁶³ In 1999, only eight schools allowed legal writing faculty to secure tenure, but today, forty-seven schools have such a pathway. Robbins, *supra* note 4, at 1183.

⁶⁴ LWI’s Discipline-Building Working Group’s charge is “[t]o develop and support discipline-building projects . . . integrat[ing] the efforts of the former Scholarship Development Committee, which sought to provide outreach and resources to foster and support scholarship by legal writing professors and

ALWD, there were no academic conferences devoted to legal writing, and when such conferences began, many law schools did not financially support their legal writing faculty to participate.⁶⁵ Indeed, LWI and ALWD hosted conferences, formulated journals targeted for the legal writing segment of academia, and provided grant programs to facilitate participation in scholarship.

The legal writing community produces scholarship as varied as its members. Within the legal writing discipline topics range from pedagogy, rhetoric, applied legal storytelling, document design, global skills, use of precedent, and transactional documents; outside the discipline, legal writing professors have produced scholarship on ethics, domestic violence, civil rights, professional responsibilities, employment law, constitutional law, access to justice, and disability. While some scholarship focuses on the inequities within the Legal Academy, this scholarship does not define the legal writing community and is no different from the myriad of legal scholarship concentrating on society's inequities and promoting reform. Law professors should not be blind to inequalities within the Legal Academy, and challenging those biases is a legitimate and important basis for scholarship. By forcing the Academy to look in the mirror and confront its own injustices, the legal writing community has not harmed the discipline.

To the contrary, such scholarship has had a positive impact. In particular, it has exposed discriminations experienced by legal writing professors and has forged positive change, resulting in higher pay and more job security. Discussing and writing about injustices not only help promote reform, but such dialogue makes legal writing professors feel less isolated and inadequate, part of a "larger group from which [they] can draw support."⁶⁶ Those who "do not experience a shared identity . . . are at risk for considerable social isolation and depression."⁶⁷ The similar plight experienced by many in the legal writing community fosters solidarity, creating a supportive

encourage scholarly collaborations with the larger legal academy." *See Discipline-Building Working Group*, LEGAL WRITING INST., <https://www.lwionline.org/resources/committees> (last visited April 11, 2022).

⁶⁵ On a personal note, I taught legal writing at my institution for sixteen years before I was reimbursed for attending a legal writing conference. The efforts of these organizations have positively affected the discipline as evidenced by the increase in conference attendance over the last few years:

Year	Participants
2016	153
2017	181
2018	231
2019	253
2020	355

While the 2020 workshops were virtual, which made it easier for many to attend, the trend is clear: attendance has increased. Kim Holst, Former President LWI.

⁶⁶ BEVERLY DANIEL TATUM, PH.D., WHY ARE ALL THE BLACK KIDS SITTING TOGETHER IN THE CAFETERIA? 161 (2020).

⁶⁷ *Id.* at 161–62.

community, one in which ideas can be freely shared and critiqued.⁶⁸ The legal writing community allows for such alliances and has enabled many members to stay engaged and grow professionally.

Finally, belonging to a community is empowering,⁶⁹ and the legal writing community emboldens its members by permitting active participation and offering a peer-based support system. By nurturing the development of leadership skills⁷⁰ and decreasing the sense of powerlessness, the legal writing community instills confidence in its members. Self-confidence is a key trait for career success,⁷¹ and it “increas[es] one’s enjoyment of work . . . [and] contributes to positive feelings of self-possession, autonomy, and control.”⁷² To develop confidence, a person needs a growth mindset—believing that success comes through effort.⁷³ By providing opportunities for its members to present and lead, the legal writing community fosters a growth mindset. Safe spaces enable people to be their true selves, and when they are comfortable to be themselves, they can create, innovate, and soar without fear of retribution or penalty.

Charles Calleros’s flamenco presentation is a case in point.⁷⁴ His bravado in a safe space inspired scholarship and emulation for decades.⁷⁵ It exemplifies that “the best and most important scholarship emerges from a community of scholars that function [sic] . . . [through] discovery In an atmosphere of mutual support and understanding.”⁷⁶ The legal writing community’s solidarity and support instilled confidence in Calleros, enabling him to present his distinctive idea that has influenced legal pedagogy for over two decades. Calleros is not alone. The legal writing community has empowered many legal writing professors who attribute their

⁶⁸ See Rob Simon, *I’m Fighting My Fight and I’m Not Alone Anymore: The Influence of Communities of Inquiry*, 48 ENG. EDUC. 41 (2015) (offering a study of new teachers that revealed their alliances with other teachers helped them combat feelings of seclusion).

⁶⁹ See Laura Parkinson, *Negotiation Racial and Ethnic Identities; Student Leaders of Color in a Predominately White Organization* 16 (Apr. 2013) (unpublished BA Honors dissertation, University of Michigan) (on file with author), <https://deepblue.lib.umich.edu/bitstream/handle/2027.42/98948/lasanche.pdf?sequence=1> (discussing that when people of color maintain support systems within their communities, they become empowered to face challenges outside of their communities).

⁷⁰ ALWD’s Leadership and Development committee “assists the ALWD Board by (i) providing mentoring opportunities to legal writing professionals, (ii) educating ALWD members about leadership theory and pedagogy, (iii) helping develop the leadership skills of ALWD members, and (iv) promoting leadership within ALWD.” *ALWD Committees*, ALWD, ASSOC. LEGAL WRITING DIRECTORS, <https://www.alwd.org/about/alwdcommittees> (last visited April 11, 2022).

⁷¹ See Amy Kosterlitz, *The Four Traits of Confidence: Growth Mindset, Courage, Grit and Self-Compassion*, AM. B. ASS’N, LITIG. WOMEN ADVOC. 1 (2015), <http://www.amykosterlitz.com/wp-content/uploads/2015/12/The-Four-Traits-of-Confidence-ABA-Publication.pdf> (discussing that self-confidence is critical for career success and can be learned).

⁷² *Id.* at 2.

⁷³ *Id.* at 3.

⁷⁴ See Bennardo, *supra* note 1, at 118–19.

⁷⁵ See Liemer, *supra* note 23.

⁷⁶ Roger C. Cramton, *Commentary, DeMystifying Legal Scholarship*, 75 GEO. L. J. 1 (1987).

pedagogical masterpieces as stemming from legal writing conferences, and it should continue to play an inspiring role.

Like the suffragists helped women gain the right to vote,⁷⁷ and civil rights activists helped minorities, LWI, ALWD, and AALS LWRP have spurred the legal writing community into action. Bennardo's contention that the legal writing community misspends its energies on status rather than scholarly dialogue fails to address the interrelationship between the two. Status issues influence intellectual discussion within the discipline,⁷⁸ and until these issues are resolved and law school hierarchies are eradicated,⁷⁹ scholarly debate cannot freely grow and thrive in the way Bennardo envisions.

V. CONCLUSION

Members of the legal writing discipline should continue on the path they have pioneered, a path that encourages a broad range of scholarship and scholarly debate, including that which challenges the inequities within the Academy. Questioning unfairness does not hinder legal writing professors from challenging each other. Moreover, stifling members is counterproductive as it could result in isolating legal writing professors and subverting the stature the legal writing community has fought so vigorously to attain, inimically resulting in less scholarship and scholarly debate. Academic debate is essential to a healthy discipline, and intellectual criticism and community solidarity can coexist. Moreover, solving status issues will positively impact scholarly discussions.

While Bennardo suggests there is a cost to publicly acknowledging that legal writing professors are treated as second-class citizens, he neither explores this cost nor examines what the price would be to ignore status issues. While the latter has not yet been researched in legal writing, the field of psychology and the histories of marginalized communities might shed light on the actual detriment to a community for admitting victimhood. Perhaps such research could even suggest other ways for the discipline to navigate its diminished status. Nevertheless, the strides the legal writing community has made suggest that the discipline would pay too high a price

⁷⁷ Robbins, *supra* note 4, at 1157 (comparing LWI and ALWD to the suffragist movement).

⁷⁸ For example, legal writing scholars might be reluctant to challenge the work of another legal writing colleague since most legal writing professors are untenured, such a challenge could cost that person their job.

⁷⁹ See Nantiya Ruan, *Papercuts: Hierarchical Microaggressions in Law Schools*, 31 HASTINGS WOMEN'S L. J. 3 (2019) (examining the hierarchical structure and power dynamics in law schools and the detrimental effects that microaggressions have on skills faculty.); *see also* Stephanie Francis Ward, *At Some Law Schools, Why Are Those Who Teach Called 'Instructor' Rather than 'Professor'?*, ABA (Sept. 13, 2021, 8:57 AM), <https://www.abajournal.com/web/article/at-some-law-schools-why-are-those-who-teach-called-instructor-rather-than-professor> (discussing the inequitable elitist divide among law school faculty).

for ignoring status. Until the actual costs of admitting victimhood are ascertained, however, no one can really determine whether they are worth the benefit.

The three central legal writing community centers, namely, the LWI, ALWD, and AALS LWRR, have done a yeoman's job of raising a cultural awareness about the needs of its membership while simultaneously providing its members with a sense of belonging, purpose, and encouragement. The byproduct of this has been to instill confidence in its members, enabling them to thrive and produce impactful scholarship while, at the same time, placing a premium upon their individuality. Furthermore, status issues affect the discipline, and when they are ultimately resolved, not only will the legal writing discipline further grow and thrive, but legal education will be made better.