

SPRING 2023: UNENDING CONVERSATIONS

# STETSON LAW REVIEW FORUM

A TALE OF TWO DISCIPLINES:  
LEGAL WRITING—A WORLD OF HAVES AND HAVE-NOTS

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## I. INTRODUCTION

In his article, *A Curmudgeon's View of the Multi-Generational Teaching of Legal Writing*,<sup>1</sup> my Duquesne Kline Law colleague, Professor Jan Levine, bemoans the current state of Legal Writing as an academic discipline. He decries the short memory of its members and organizations and a perceived lack of depth of research in its scholarship. He alleges a tendency of the community to avoid criticism of legal writing colleagues with respect to both pedagogy and scholarship. Further, Professor Levine complains that those writing faculty who achieve tenure no longer have a primary identity as legal writing faculty, something he finds problematic. Largely, Professor Levine blames generational differences among members of the discipline in tandem with the functioning of the two major legal writing organizations—the Legal Writing Institute (“LWI”) and the Association of Legal Writing Directors (“ALWD”)—for these flaws.

Professor Levine makes some important points in his essay with which I agree. For instance, he argues that LWI and ALWD could do a better job of preserving historical information and maintaining institutional memory. This is a fair criticism, but one that can be lodged at many volunteer organizations, including academic ones. His overall argument is that generational differences are the root cause of many of these problems and that the younger generations’ ways of approaching matters are necessarily inferior. However, this argument ignores that lower-ranking faculty

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\* © 2023, All rights reserved. Associate Dean for Academic Affairs and Associate Professor of Law, Thomas R. Kline School of Law of Duquesne University (Duquesne Kline). I would like to thank Stetson Law Review and the *Unending Conversation* for beginning these important discussions and letting me join in the fun. I would also like to thank my colleagues April Milburn-Knizner, Marissa Meredith, and Tara Willke for their encouragement and support as well as for their efforts on the Climate Survey referenced in this article. Many thanks also to my Research Assistant Dana Aboud who provided exceptional assistance throughout the project. Last, but certainly not least, I sincerely thank Professor Jan Levine for his many years of mentorship. It’s not an exaggeration to say that, if not for him, I would not be in the academy or have been able to enjoy the amazing career I have. We may disagree on this issue, but his contributions to the legal writing field and the academy are peerless.

<sup>1</sup> Jan M. Levine, *A Curmudgeon's View of The Multi-Generational Teaching of Legal Writing*, 25 LEGAL WRITING 1 (2021) [hereinafter *Curmudgeon's View*].

status and institutional barriers, not generation, are at the heart of these concerns. Diversity, in all its forms, including generational diversity, is positive for the legal writing field and the entire academy. Most (if not all) of the issues he notes are directly attributable to continued status problems in our field along with systematic barriers in the academy overall, not the age of the teachers, or whether we are Boomers or Millennials or GenXers. Professor Levine has long been a champion of improving status for Legal Writing faculty, and his efforts paved the way to the improved status we see today.<sup>2</sup> But today's legal writing world is one of haves and have-nots.<sup>3</sup> The privileged 20% have traditional tenure or are tenure track, the bottom 25–30% have limited short-term contracts or no security of position.<sup>4</sup> The 50% in the middle have some security of position,<sup>5</sup> but it's still less than tenure and impedes the willingness of many to “rock the boat,” and understandably so. Professor Levine and I teach at the same school; he directs the legal writing program and supervised me as the director until just this year, when I stepped away from teaching legal writing due to administrative duties. The fact that I feel comfortable enough to write this response to his well-received article<sup>6</sup> is proof that status matters. An untenured professor, even one with 405(c) status, could not do this with confidence and security. I am conscious that Professor Levine is a major reason legal writing faculty (including me) have tenure and status at Duquesne Kline Law and elsewhere. He deserves many accolades for his previous work, but *Curmudgeon's View* misses the mark.

Different generations (and different individuals) bring a variety of strengths to the legal writing field, to both teaching and scholarship, and that diversity is a strength, not a weakness. To the extent Professor Levine's observations critical of the legal writing field are accurate, it is a function of the lack of status and job security available for the majority of legal writing faculty rather than “naivete,” “incomplete efforts,” or “lack of research.”<sup>7</sup> High turnover, burnout, significant gender disparity, and uneven mentoring of faculty all contribute to the issues he mentions. Below I explore these concepts more fully.

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<sup>2</sup> See, e.g., Jan M. Levine & Kathryn M. Stanchi, *Women, Writing & Wages: Breaking the Last Taboo*, 7 WM. & MARY J. WOMEN L. 551 (2001); Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools' Dirty Little Secrets*, 16 BERKELEY WOMEN'S L.J. 3 (2001).

<sup>3</sup> See *ALWD/LWI Legal Writing Survey, 2020-2021*, ASS'N OF LEGAL WRITING DIRS., at 2 tbl.1 (2021) <https://www.alwd.org/images/resources/2020-2021-ALWD-and-LWI-Individual-Survey-report-FINAL.pdf>. The most recent ALWD/LWI survey shows about 50% of legal writing faculty have a variety of long-term, sometimes presumptively renewable contracts that guarantee some protection from losing a job, but very little automatic status, and even less guarantee of equal treatment. See *id.*

<sup>4</sup> *Id.*

<sup>5</sup> See *id.*

<sup>6</sup> Scott Fruehwald, *Best Legal Education Articles of 2021*, TAXPROF BLOG (Dec. 31, 2021), [https://taxprof.typepad.com/taxprof\\_blog/2021/12/weekly-legal-education-roundup-the-year-in-review.html](https://taxprof.typepad.com/taxprof_blog/2021/12/weekly-legal-education-roundup-the-year-in-review.html) (including *A Curmudgeon's View* in the list of top legal education articles for the year).

<sup>7</sup> *Curmudgeon's View*, supra note 1, at 2.

## II. STATUS, NOT GENERATION, IMPACTS EVERYTHING

In *A Curmudgeon's View*, Professor Levine suggests that many of the problems he identifies in the legal writing field to be a result of differences in the generations of the teachers. He notes that he found himself “focusing more on the generational differences among the teachers themselves than on the differences between teachers and students. [He] kept thinking about generational differences [he saw] manifesting in the scholarship, service, and self-image of the teachers in the field over the past three decades.”<sup>8</sup> The article then lists problems of what he calls historical myopia, institutional forgetfulness, scholarly and pedagogical kumbaya, and unintended consequences of the successes in the field. Loosely, he claims that many of the problems he sees are a result of deficiencies in younger generations of legal writing teachers, as well as in the large legal writing institutions. But such claims neglect the ongoing reality that pervades the field—the inferior status of legal writing professors at so many institutions necessarily influences the field as a whole.

While the ALWD/LWI annual survey<sup>9</sup> provides some excellent data points to draw from on the topic of status in legal writing, that survey does not address to the more qualitative personal experiences of faculty in the field. In order to help fill that gap, in spring of 2021, two of my colleagues<sup>10</sup> and I conducted a small informal and anonymous survey<sup>11</sup> of Legal Writing faculty on topics related to status and treatment, in anticipation of a presentation we made at the 2021 ALWD Biennial Conference. In some ways the responses we received were expected, but in others they were surprising. The full picture of the survey showed a discipline full of “haves” and “have nots.” Yes, many faculty at a handful of schools have achieved the holy grail of tenure and true respect at their schools.<sup>12</sup> But by and large we continue to have many more faculty who do not have security of position or have not achieved the respect necessary in the academy for true academic freedom.<sup>13</sup> Further, we have many faculty who are enduring microaggressions from colleagues, administration, and even, on occasion, students, all based on the perceived status of their positions at the law school. As Professor Levine noted in his article, these are not new problems, but they do remind us that while we’ve seen many victories in the fight for status and respect—the war is not yet won.

Status impacts everything. A legal writing faculty member who is paid the same as her doctrinal colleague; has the same voting rights; the same likelihood to be

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<sup>8</sup> *Id.*

<sup>9</sup> See generally *ALWD/LWI Legal Writing Survey, 2020-2021*, *supra* note 3 (providing an overview of survey “information collected from 330 legal research and writing professors across the country” concerning legal research and writing programs at their schools).

<sup>10</sup> Marissa Meredith, Ann L. Schiavone & Tara Willke, *But You’re Not a Real Law Professor: A Legal Writing Climate Survey*, ALWD Biennial Conference, Virtual (2021) [hereinafter *Climate Survey*].

<sup>11</sup> *Id.* Of the 171 legal research and writing professors who responded to the survey, 145 (85%) fully completed it. *Id.* Some of the highlights show that despite how far we have come, there is still far to go.

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

chosen to chair the curriculum or appointment committees; the same fringe benefits including scholarship grants, travel budgets, and research assistants; and the same academic freedom and job security looks so much like her doctrinal colleagues that it becomes more difficult to treat her as “less than.” Many legal writing faculty—myself included—have experienced this. It makes doing our jobs easier. We have the time, resources, and support we need to teach, research, and serve our students and our schools.

But a large majority of legal writing faculty have not achieved these benchmarks. A whopping 83.77% of respondents to our survey believe they are not paid as much as doctrinal colleagues.<sup>14</sup> Further, 52% of respondents have never been asked to chair an important committee at their schools.<sup>15</sup> While 39% reported being allowed to vote on the hiring of tenure track faculty at their schools, another 61% cannot. And while most legal writing faculty have at least partial voting rights, almost 20% reported no voting rights or extremely limited ones. Combine these with the lack of job security noted above, and it becomes easy for colleagues, administrators, and students to treat legal writing faculty as second-class citizens of the law school. This treatment necessarily affects the field as a whole, causing turnover, burnout, decreased mental health, and a host of other consequences that feed into the problems identified by Professor Levine.

At the very least, job security is necessary for both academic freedom and creativity among faculty.<sup>16</sup> While legal writing faculty have come far since the 1980s, 1990s, and even early 2000s, it is easy for those of us who have achieved the benchmarks of success to forget how many have not. Looking at Professor Levine’s biggest complaints about legal writing, we can see how it’s status, not generation,<sup>17</sup> that matters most.

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<sup>14</sup> *Id.*

<sup>15</sup> *Id.* It is important to differentiate prestigious or “glamour” committees like Faculty Appointments or Curriculum from other committees that lead to “housework” but do not provide advancement or prestige. See Mary Nicol Bowman, *Legal Writing as Office Housework?*, 69 J. LEGAL EDUC. 22, 22–23 (2019). I’m not sure this question fully captured this. I suspect far less that 48% have been asked to chair a prestigious committee.

<sup>16</sup> Richard K. Neumann Jr., *Academic Freedom, Job Security, and Costs*, 66 J. LEGAL EDUC. 595, 598 (2017). “In addition to protecting academic freedom, job security has been shown by empirical research to increase innovation and creative problem-solving—especially among highly educated employees such as J.D. faculty. The converse has also been shown empirically: People who can easily lose their jobs will not innovate because they cannot afford the risk.” *Id.*

<sup>17</sup> Research on Generational Theory in the workplace has had mixed results. Even where generational differences do exist, they seem to be very small. See Jeffrey M. Cucina, Kevin A. Byle, Nicholas R. Martin, Sharron T. Peyton & Ilene F. Gast, *Generational Differences in Workplace Attitudes and Job Satisfaction*, 33 J. MANAGERIAL PSYCH. 246, 246–47 (2018).

### III. A WORD ON GENERATIONAL THEORY AND CONFLICTS

Professor Levine does not specifically focus on generational cohorts in his essay, rather he generally discusses younger or newer legal writing faculty compared to those who entered the profession with him. Yet, an understanding of cohort theory may shed some light on Professor Levine's complaints. Generational Cohort Theory is the theory that people born in a particular time frame share similar social, economic, and political experiences in their lives resulting in shared characteristics, values, and attitudes.<sup>18</sup> This has been explored particularly in the context of workplace conflicts. Human Resource professionals have spent significant time and ink on discussing how the Silent Generation, Baby Boomers, GenXers, Millennials, and now Gen Z work and interact, and how to manage conflicts that arise. There's some dispute over the source of workplace conflicts and whether generational cohort characteristics are the source, or whether differences arise primarily because of people's changing values and perspectives as they age. It's likely a combination both. Regardless, it's clear from the time and resources companies spend on researching it that workplaces are suffering from conflicts among employees that are related to generational differences. Professor Levine does not identify whether he believes his observations of generational differences are born from conflicts among cohorts, simply changing attitudes as we age, or from some other source. No matter the believed source, however, it is important that we recognize generational characteristics, values, and attitudes are not inherently good or bad. Take a few typical values for each generation cohort as an example: Boomers are thought of as competitive and seek recognition in their work, while GenXers are associated with seeking autonomy and flexibility in their work. Millennials seek challenging collaborative work but want clear direction and feedback.<sup>19</sup> None of these are negative characteristics, but it should not surprise anyone that each of these cohorts might not fully understand or appreciate the primary values motivating the others.

The fact that we have a variety of different individuals with different values and attitudes teaching in legal writing (and in law schools generally) may indeed cause conflict, but it is not inherently negative. Diversity in all its various forms (including generational diversity) is a positive thing for faculties and we should focus on how to best support one another in our careers, accepting each other for the individuals we are. The true issue in the legal writing field is the elephant in every faculty lounge—status.

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<sup>18</sup> *The Whys and Hows of Generations Research, Report*, THE PEW RSCH. CTR. (Sept. 3, 2015), <https://www.pewresearch.org/politics/2015/09/03/the-whys-and-hows-of-generations-research/>.

<sup>19</sup> Tomislav Hernaus & Nina Poloski Vocik, *Work Design for Different Generational Cohorts, Determining Common and Idiosyncratic Job Characteristics*, 27 J. ORGANIZATIONAL CHANGE MGMT. 615, 619 (2014).

IV. “FORWARD ALWAYS FORWARD. EVERYWHERE FORWARD.”<sup>20</sup>

Knowledge of and respect for the past should inform but not shackle efforts to move the legal writing discipline forward. Professor Levine is very concerned about what he calls historical myopia and institutional forgetfulness—that legal writing faculty “post on listservs as if nothing important happened more than a few years earlier;” “ask naïve questions;” present at conferences on recycled topics; or “fail to cite fundamental articles on status and salary issues that are more than a decade old.” While I agree the historical perspective is important, I do not see these things as signs that legal writing faculty fail to recognize the strides made on status in the past three decades or as signs they are too lazy to do research. These problems (to the extent they are problems) occur largely because of the polarization of the discipline into haves and have nots—something most other fields in the academy do not face. To move the discipline forward, it’s the status problem we must continue to address.

First, our discipline sees significant numbers of new teachers every year, due to a combination of faculty on short-term contracts and use of adjunct faculty, along with issues of status, low pay, and high workload, which lead to burnout and turnover. Of course, overworked, underpaid legal writing faculty seek quick answers and information on the listserv—something they have been encouraged to do by other legal writing faculty. Do we want to discourage questions, comments, and communication because it comes across as naive? Or is it better to encourage communication and relationship building that provides support to faculty who otherwise may have minimal support at their schools? The listserv provides a safe space for all levels of legal writing faculty, and those of us “haves” with more resources at our disposal should acknowledge the varied experiences of our colleagues and grant them patience and grace, while recognizing we have a responsibility to help them advance and develop as teachers and scholars. Could our institutions, like LWI and ALWD, do more to preserve and make available the historic perspective for the legal writing community to draw upon? Yes, but you can say the same of many volunteer organizations whose leadership changes every few years and that do not have fulltime administrators to provide institutional memory.

Regarding legal writing conferences and the repetition of topics by unseasoned faculty, the issue is similar. Those of us who have been around the legal writing world for more than four or five years will have noticed that sometimes conference presentation topics recycle every few years and are brought up like they are a “new” or novel topics or ideas, even though someone did something very similar a few years ago. Professor Levine believes this is a sign of institutional forgetfulness, but what we must all recognize is that for these presenters and many attendees, these topics

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<sup>20</sup> *Boniface Wimmer*, BONIFACE WIMMER SITE SAINT VINCENT ARCHABBEY, <https://bonifacewimmer.org/> (last visited March 28, 2023). This title is a quote of Archabbot Boniface Wimmer, OSB, a German Benedictine monk who founded St. Vincent Monastery, Seminary, and College 50 miles east of Pittsburgh. It signifies the idea that while the past supports us, our endeavors should always be forward-looking.

are often new to them. As noted, about 20% of faculty are on short-term contracts.<sup>21</sup> There is also turnover and new faculty entering the field each year. Maybe these conference presentations just aren't for those of us who have been around for a while. Further, while I agree with Professor Levine's concern that we should all acknowledge the scholarship that has come before us, we cannot and should not "gatekeep" scholarship and presentation topics, perceiving them to be "settled" or "already done." Such attitudes limit new, diverse voices from speaking on or adding to the scholarly conversation. We have one large conference and several smaller conferences every year. There are plenty of opportunities to present, and there is room for people at every level of their career trajectory. There is nothing inherently wrong with providing such opportunities.

No doubt Professor Levine is right that it would be better if faculty would write about their presentations and help create a record of this scholarship, but it can be difficult for junior faculty in any discipline to "get started" writing. As a former Associate Dean for Faculty Scholarship and a former junior faculty member myself, I can say there are serious barriers to research and scholarship. From a dearth of time and resources to imposter syndrome and lack of mentorship, to even open hostility from colleagues, legal writing faculty have an uphill climb to producing written scholarship. I want to acknowledge that LWI and ALWD have worked to provide scholarship mentoring to junior faculty, but some faculty can't take advantage of it because of a host of real and perceived barriers. Many junior faculty need more one-on-one intensive mentorship than those organizations can provide. It can be especially hard to produce scholarship for those who do not have support at their own schools.

Professor Levine expresses concern about some scholars' failure to cite to older articles on status; however, the issue is a little more nuanced. While many of the status issues encountered in the past still exist today, the victories of legal writing faculty the last few decades indicate the problems are not always exactly the same. At one time, all legal writing faculty were fighting gender stereotypes and advocating for some voting rights, 405(c) status, and increased salaries.<sup>22</sup> Now we have some schools where faculty have full voting rights, unitary tenure, and equal pay, while other faculty continue the Sisyphean task<sup>23</sup> of fighting the fights of decades before, and the vast majority sit somewhere in the middle. While 405(c) was once the goal of almost everyone, now many view it as not good enough, while others are still hoping

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<sup>21</sup> See *ALWD/LWI Legal Writing Survey, 2020-2021*, *supra* note 3, at iv tbl.1.

<sup>22</sup> See e.g., Maureen J Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Program*, 70 TEMP. L. REV. 117 (1997); Pamela Edwards, *Teaching Legal Writing as Women's Work: Life on the Fringes of the Academy*, 4 CARDOZO WOMEN'S L.J. 75 (1997); Mary Beth Beazley, *Riddikulus: Tenure-Track Legal-Writing Faculty and the Boggart in the Wardrobe*, 7 SCRIBES J. LEGAL WRITING 79 (1998-2000); Levine & Stanchi, *supra* note 2.

<sup>23</sup> I am not the first to compare teaching legal writing to Sisyphus and his uphill battle. See Jan M. Levine, *Leveling the Hill of Sisyphus: Becoming a Professor of Legal Writing*, 26 FLA. STATE UNIV. L. REV. 1067 (1999).

to achieve it.<sup>24</sup> Additionally, there are aspects of race and intersectionality that have come to the forefront recently that are not addressed in earlier research.<sup>25</sup> The first articles on status are the foundation of the movement, and we can all agree to acknowledge the writings of Professor Levine, Professor Kathryn Stanichi, and many others, but we must also respect the forward-looking efforts of the authors currently writing on status and see their views as new and important perspectives on a continuing problem.

## V. SUPPORTIVE ALLIES AND MENTORS

Another concern voiced in the article is that the legal writing community is not critical enough of the teaching and scholarship of its own members; Professor Levine called it “scholarly and pedagogical kumbaya.” There is nothing inherently wrong with providing a supportive community; legal writing faculty have enough critics and lack of support.<sup>26</sup> The legal academy can be a difficult work environment for those who do not fit the traditional picture of a law professor—read that as white, cisgender, and male. Women, People of Color, and those who identify as LGBTQIA+ often face treatment from colleagues, administration, and even students that is disrespectful, even bordering on abusive. Couple these traits with low faculty status and the results can be intolerable. It is well established that most legal writing faculty are women, including many women of color.<sup>27</sup> We also have men teaching in the field who identify as gay, bisexual, or transgender. Each of these faculty members must not only navigate academia with traits that make them different, they are also legal writing professors, which in many, maybe even most schools, results in second class status. For many, if not most, the Legal Writing Community provides a place for LRW faculty to find allies, recognition, and support. To argue that the Legal Writing Community must forsake its role as a supportive network and become harsh and critical of each other’s work in order to be taken seriously in the academy says more about the academy than it does the Legal Writing Community. To paraphrase Luther Ingram, if we’re wrong, I don’t want to be right.<sup>28</sup>

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<sup>24</sup> See generally Catherine M. Christopher, *Putting Legal Writing on the Tenure Track: One School's Experience*, 31 COLUMBIA J. GENDER & L. 65 (2015) (“[W]hile approximately 16% of legal writing faculty are tenured or tenure-track, approximately 31% are 405(c) or 405(c)-track, and the remaining 53% have employment contracts of one, two, three, or more years.”)

<sup>25</sup> See, e.g., Terri A. McMurtry Chubb, *On Writing Wrongs: Legal Writing Professors of Color and the Curious Case of 405(c)*, 66 J. LEGAL EDUC. 575, 575 (2017); MEERA E. DEO, *UNEQUAL PROFESSION: RACE AND GENDER IN LEGAL ACADEMIA*, (Stanford University Press 2019).

<sup>26</sup> See Amy H. Soled, *The Legal Writing Community's Bonds Enable it to Flourish*, 5 STETSON L. REV. F. 1, 1 (2022). In this essay, Professor Soled artfully responds to Professor Kevin Bennardo’s article entitled *Legal Writing's Harmful Psyche*, where he calls out the Legal Writing community as overly supportive, and thus too uncritical of one another’s work to be taken seriously. *Id.* Professor Levine seems to lean heavily on the sentiment in Professor Bennardo’s article when discussing what he calls “scholarly and pedagogical kumbaya.”

<sup>27</sup> See Richard K. Neumann, *The 'Pink Ghetto' Pipeline: Challenges and Opportunities for Women in Legal Education*, 96 UNIV. DETROIT MERCY L. REV. 525, 526, 531 (2019).

<sup>28</sup> LUTHER INGRAM, (IF LOVING YOU IS WRONG) I DON’T WANT TO BE RIGHT (KoKo Records 1972).

Those of us “haves” in the legal writing field may forget the experiences that continue for so many of our colleagues around the country. Take some observations from our informal survey mentioned above: 53.4% of respondents reported experiencing silencing or sidelining by faculty colleagues.<sup>29</sup> When asked for specific examples, some reported being ignored in a physical space and having colleagues avoid eye contact in the hallways. Some common examples were colleagues describing nonlegal writing classes as “real classes,” and telling legal writing professors they are not “real professors,” sometimes in front of students. Other examples included colleagues identifying legal writing professors as instructors or calling them Mrs., Ms., or by first names in front of students.

Another common way of degrading legal writing professors is to compare them to teachers in primary or secondary education. While I think we would all agree that there is nothing inherently negative or degrading about being compared to a hardworking teacher at any level, the context of these comments shows the speaker, at least, intended the insult. In the survey, one respondent told the story of a tenured professor who once told an associate dean that the class sizes for legal writing classes can be larger “because kindergarten classes can have thirty children in them.” Another tenured professor suggested during a meeting that if the school shortened the semester during the pandemic, legal writing faculty could grade more quickly if they just “buckled down” and “read papers every night, like a high school English teacher.” Faculty at another institution said legal writing faculty could be replaced by “housewives.” The misogyny was strong with that one.

Legal writing professors are further degraded as the targets of microaggressions. For example, over 60.1% of respondents reported experiencing microaggressions from faculty colleagues at their own school.<sup>30</sup> Other major sources of microaggressions were from administration (24.6% respondents reported), students (42.1% respondents reported) and faculty at other institutions (22.8% respondents reported).<sup>31</sup> Another common place where microaggressions (or macroaggressions) surface is in faculty meetings, voting, and promotion, with several respondents commenting that their doctrinal colleagues did not want legal writing professors to be able to vote on hiring tenure-track faculty. Excuses for this disenfranchisement included that legal writing professors “would not be able to judge their scholarly capacity” or would vote as a block. One respondent recalled that after a hiring meeting to vote on a new tenure track faculty candidate, the chair of the hiring committee, who did not get her first choice after all of the faculty voted, commented within ear shot of legal writing faculty that “this never would have happened if the contract faculty were not allowed to vote.” At other schools, doctrinal faculty opposed any voting rights for legal writing faculty at all and even seem to resent their presence at the faculty meetings. This is truly just a small sample of the many examples provided in the survey.

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<sup>29</sup> *Climate Survey*, *supra* note 10.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

When colleagues treat legal writing faculty as second-class citizens, it should not be surprising that students internalize that message as well. Faculty reported student evaluations that included comments such as: “LRW is a woman's job,” “she doesn't belong here,” and “what's wrong that you couldn't get a tenured job?”<sup>32</sup> A legal writing professor who is a woman of color noted that students question what she says and comment that she is “nice,” but they are “not sure if [she is] capable.”<sup>33</sup>

Based on the above, it should come as no surprise that almost 40% of respondents to the survey agreed that their mental health has been negatively impacted as a result of interactions with faculty colleagues.<sup>34</sup> As a group, we are not in healthy mental spaces. This may also apply to large sections of legal academia. Many of the experiences reported in this survey echo the experiences of women of color in the legal academy.<sup>35</sup> But it most certainly applies to legal writing, too. Several of the qualitative comments spoke of anger, depression, or burnout; others had seemingly internalized and believed they were “less than” their doctrinal colleagues.<sup>36</sup>

Those of us lucky enough to be at schools where we are tenured and highly respected can easily lose sight of the experiences of a vast majority of our legal writing colleagues. If the legal writing community is overly welcoming, less vocally critical, and more open than other academic disciplines, that is not a shortcoming, it's a type of community healing and care when the experience at individual schools can be so very demoralizing.

None of this is to say that constructive feedback is unwarranted or absent. Frankly, I've found legal writing faculty to be among the most constructive in feedback about scholarship and teaching methods. We think deeply about how we communicate to students and in our scholarship. Such constructive feedback is often delivered privately and with dignity, which is perhaps why it goes unnoticed by many.<sup>37</sup>

## VI. RESPECTING LEGAL WRITING FACULTY AS INDIVIDUALS

Many years ago, as a young legal writing professor, I noticed that I would often be confused with other young women who also taught legal writing. Sometimes I would be called by their names, or colleagues would assume I would teach the same upper-level classes they taught. Assumptions were made about me based on

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Climate Survey, supra* note 10.

<sup>35</sup> *See* DEO, *supra* note 25.

<sup>36</sup> *Climate Survey, supra* note 10.

<sup>37</sup> I am reminded of a story my father (a basketball coach) often told when asked what “good coaching” looked like. He remembered a softball coach I had at the age of 6. When a player made an error that coach would approach the player and quietly talk to them about it. There was no yelling or screaming; no public shaming; no embarrassment—just a quiet correction heard by no one but the player. That is how the legal writing community should, and usually does, coach their own.

characteristics of other legal writing faculty. I would joke that we were considered “fungible” to our colleagues. One legal writing professor was the same as another.

Some of Professor Levine’s biggest criticisms concerning scholarship, teaching and the “professional identity” of legal writing professors suggest that we are indeed fungible, and not individuals. Professor Levine criticized legal writing faculty who choose to write and teach in other areas or who he claims do not have a “primary identity” as a legal writing faculty. Perhaps this is my GenX need for freedom and flexibility talking, but why must we pigeonhole one another?

In the area of scholarship, there are many good reasons to write in areas other than legal writing, just as there are good reasons to write about legal writing. From our recent survey discussed at length above, only 13% of respondents reported that faculty colleagues respected their legal writing scholarship as much as doctrinal scholarship.<sup>38</sup> That is a stark statistic that presents a “chicken-or-egg” problem. Is the reason faculty colleagues do not respect legal writing scholarship because it is truly inferior? Or is it because the prevailing bias within the academy tells us that legal writing scholarship is inferior? How do we expect legal writing faculty to overcome the bias and succeed in their schools—should they write about legal writing and try to force respect from colleagues? Or should they write in other areas only or perhaps a combination of both? This is an individual question that each faculty member must answer for themselves based on their own perspective and the environment at their school. There is no one right answer and no reason to criticize faculty for these choices. Do torts professors always write about torts, or contracts professors about contracts? No. Do some write about torts or contracts? Yes. Do we fault either choice? No. Then why should we treat legal writing faculty differently? Legal writing faculty are not fungible or homogenous. We are individuals and can forge successful paths in different ways.

A similar calculus is at play in teaching. Legal writing teachers are not one size fits all. Some will want to teach solely in research and writing, while others will want to teach seminars in an area of special interest or doctrinal classes they enjoy. Some want to dig deep in one area while others want variety. Some see teaching other courses as a way to improve status, while others believe focusing on legal writing lifts the discipline. Both perspectives can be true. Faculty on our survey reported being told by faculty colleagues that what they teach (legal writing) is “easier” and “not intellectual.”<sup>39</sup> One respondent recalled a colleague’s response to her teaching package: “oh, contract drafting. I thought you said ‘contracts.’”<sup>40</sup> There are a variety of possible responses to this disrespect evident for legal writing teaching. Some faculty try to educate their colleagues to varying degrees of success. Others push back on their doctrinal colleagues by expressing that legal writing is the “most important” or “most challenging” course. Still others seek to teach outside the confines of legal writing to prove their value as law teachers generally. Each approach may be successful or not, depending on the context and environment.

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<sup>38</sup> *Climate Survey*, *supra* note 10.

<sup>39</sup> *Id.*

<sup>40</sup> *Id.*

## VII. CONCLUSION

The legal writing community is by no means perfect, but it's a privilege to be counted among such dedicated groups of professionals who—whether Silent Generation, Boomer, GenXer or Millennial—are committed to helping students develop into excellent legal thinkers, researchers, writers, and professionals. Our field has come a long way since its early days, and I for one look forward to seeing what we can do in the next decades as we welcome Gen Z to the fold.