

Fall 2007

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Wawrose, Susan and Ricks, Sarah E., "Survey of Cooperation Among Clinical, Pro Bono, Externship and Legal Writing Faculty" (2007). *School of Law Faculty Publications*. 90.

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Comment: Survey of Cooperation Among Clinical, Pro Bono, Externship, and Legal Writing Faculty

Sarah E. Ricks and Susan C. Wawrose*

*One person is not as wise as two together.*¹

Recent surveys by a committee of the Legal Writing Institute (LWI) show that many legal writing faculty around the country are engaged in exciting and creative collaborations with their colleagues in clinics and in externship and pro bono programs. Faculty from these different programs work together around course and curriculum planning, on large and small teaching initiatives, and on scholarship. Whether the proper metaphor for this type of collaboration is collision² or something more constructive, the inspiring fact is that these collaborations are taking place.

Do the benefits of cross-program collaboration outweigh the challenges and potential pitfalls? Elsewhere in this issue, Dean Darby Dickerson outlines why law schools should encourage collaboration across programs.³ For example, legal research and writing (LRW) faculty may want to reach out to their clinical, externship, and pro bono colleagues to build bridges among like-minded faculty; to rejuvenate their teaching by experimenting with new teaching methods or real legal problems; to motivate students or spark student interest in clinical opportunities; or to help achieve the public service missions of their law schools.⁴

* © Sarah E. Ricks and Susan C. Wawrose 2007. Sarah E. Ricks is Clinical Associate Professor and Co-Director, Pro Bono Research Project, Rutgers School of Law-Camden. Susan Wawrose is Professor of Lawyering Skills, University of Dayton School of Law. The authors would like to thank the many members of the Legal Writing Institute (LWI) who contributed to this project by responding to the e-surveys conducted by the Committee on Cooperation Among Clinical, Pro Bono, and Legal Writing Faculty.

¹ Attributed to a Chinese proverb.

² This comment is a response to papers presented at the 2007 meeting of the Association of American Law Schools (AALS) Section on Legal Writing, Reasoning, and Research. The theme of the meeting was *When Worlds Collide: Exploring Inter-Relationships and Collaboration Between Clinicians and Legal Writing Teachers in Teaching and Scholarship*.

³ Darby Dickerson, *Building Bridges: A Call for Greater Collaboration Between Legal Writing and Clinical Professors*, 4 J. ALWD 45 (2007).

⁴ See Michael A. Millemann & Steven D. Schwinn, *Teaching Legal Research and Writing with Actual Legal Work: Extending Clinical Education into the First Year*, 12 Clin. L. Rev. 441, 444-446, 476-491 (2006); Rebecca A. Cochran, *Legal Research and Writing Programs as Vehicles for Law Student Pro Bono Service*, 8 B.U. Pub. Int. L.J. 429, 444-446 (1999); Brook K. Baker, *Incorporating Diversity and*

On the other hand, Phyllis Goldfarb, Kate O'Neill, and Carrie Menkel-Meadow clearly articulate some of the practical and political obstacles to collaboration. As Professor Goldfarb explains, law school clinics and LRW programs were designed to meet different needs in legal education; as a result, each field has its own history, mission, culture, and distinctive pedagogy.⁵ Thus, when it comes to collaboration, faculty may be discouraged by the degree to which they have different goals, emphasize different aspects of the law or the circumstances of a case, or use different approaches in the classroom or to evaluate student performance. Professor O'Neill demonstrates that, over time, legal writing professors have come to shoulder the responsibility for teaching legal methods, such as case synthesis, and raises concerns about how legal methods might be underemphasized in a revised curriculum.⁶ In addition, both clinicians and LRW faculty have struggled, independently, to improve their status in the legal academy. The perceived difference in status that still exists at many schools between clinicians and legal writing faculty can lead to what Professor Menkel-Meadow refers to as a kind of "class warfare" that stands in the way of collaboration. And, if nothing else, the extraordinary amount of faculty time and energy necessary to successfully collaborate can be a deterrent.

Despite these very real obstacles, individual law school faculty and programs already engage in a wide range of collaborative efforts. In 2006, the LWI Committee on Cooperation among Clinical, Pro Bono, and Legal Writing Faculty undertook an e-survey of legal writing faculty to identify examples of ongoing cross-program collaboration.⁷ Seventy-one law faculty members responded to the survey, and Committee members followed up with telephone interviews.

One goal of the survey was simply to learn how much LRW faculty already were "cooperating" with colleagues in clinical, externship, and pro bono programs. A second objective was to create an easily available resource for members of the LRW community interested in experimenting with collaboration with other faculty. To this end, the Committee drafted a comprehensive topical outline of survey responses that records a full spectrum of collaborative efforts — from informal or "water cooler" conversations between LRW faculty and clinicians to full-blown curricular changes.⁸ While neither the survey responses

Social Justice Issues in Legal Writing Programs, 9 Persps. 51, 54 (Winter 2001); Miki Felsenberg & Luellen Curry, *Incorporating Social Justice Issues into the LRW Classroom*, 11 Persps. 75 (Winter 2003); see also Linda F. Smith, *Why Clinical Programs Should Embrace Civic Engagement, Service Learning and Community Based Research*, 10 Clin. L. Rev. 723 (2004).

⁵ Phyllis Goldfarb, *So Near and Yet So Far: Dreams of Collaboration Between Clinical and Legal Writing Programs*, 4 J. ALWD 35 (2007).

⁶ Kate O'Neill, *But Who Will Teach Legal Reasoning and Synthesis?* 4 J. ALWD 21 (2007).

⁷ The members of the Committee were Sarah E. Ricks, Chair (Rutgers-Camden); Susan Wawrose (U. Dayton); Steven Schwinn (U. Maryland); Rhonda Beassie (Houston); and Ruth Anne Robbins (Rutgers-Camden).

⁸ The 2006 survey results were presented by Susan Wawrose and Sarah Ricks at both the 2006 AALS Conference on Clinical Education and the 2006 LWI Biennial National Conference.

themselves nor this short summary of the 2006 survey results includes every example of collaboration, for faculty interested in initiating a collaborative effort, the varied examples reported by legal writing teachers provide a helpful starting point.

One of the most ambitious forms of collaboration is designing and teaching a cross-disciplinary course, one that combines legal writing and clinical pedagogies. These collaborations can be writing courses that also capture, in Phil Meyer's words, "the excitement, high drama, and emotional buzz of live cases."⁹ For example, Michael Millemann, a University of Maryland School of Law clinician, and his LRW colleague Steven Schwinn taught the third semester of LRW in an appellate advocacy post-conviction clinic where LRW students worked on teams with upper-level clinic students.¹⁰ Separately, Millemann and Schwinn also used real police brutality cases in a second semester LRW course emphasizing pretrial advocacy.¹¹ In a similarly ambitious cross-disciplinary course, Northwestern professor Sarah Schrup requires students in her Federal Appellate Clinic to draft and argue real criminal appeals before the Seventh Circuit Court of Appeals.¹² Professor Schrup, a clinician who formerly taught LRW, designed the class as a hybrid and describes it as a "clinical course with a focus on advanced legal writing."¹³ Likewise, Evelyn Tenenbaum (Albany) designed and taught a year-long Summary Judgment course, where students represented government defendants in pro se civil rights cases, developed a record sufficient for summary judgment, and then drafted and filed summary judgment briefs.¹⁴ At the University of Washington, Tom Cobb collaborates with

The comprehensive outline of the survey results was distributed as a handout at both of those presentations, and at the 2007 meeting of the AALS Section on Legal Writing, Reasoning and Research. The survey results can be cited as Susan Wawrose and Sarah Ricks, *Encouraging Cooperation Between Legal Writing Programs and Pro Bono, Clinical, and Externship Programs* (LWI Biennial National Conference, Atlanta, GA, June 10, 2006) (available at AALS, <http://www.aals.org/documents/2006clinical/RicksWawroseHandoutAALSMay2006.pdf> (accessed Aug. 15, 2007); LWI, <http://www.lwionline.org/publications/bibliographies2006.asp#r> [under Ricks, Wawrose, Klothen, Tenenbaum] (accessed Aug. 15, 2007); and LWI, <http://www.lwionline.org/survey/cooperation/results2006.pdf> (accessed Aug. 15, 2007)).

⁹ Philip N. Meyer, *When Worlds Collide: Exploring Intersections Between Legal Writing and Clinical Pedagogy, Scholarship, and Practice*, 4 J. ALWD 1 (2007).

¹⁰ See Michael A. Millemann, *Using Actual Legal Work to Teach Legal Research and Writing*, 4 J. ALWD 9 (2007).

¹¹ A more detailed description of both courses is available in Millemann & Schwinn, *supra* n. 4.

¹² See Sarah O. Schrup, *The Clinical Divide: Overcoming Barriers to Collaboration Between Legal Writing and Clinical Programs* (NYLS Clinical Research Institute Paper No. 06/07-1) (available at <http://ssrn.com/abstract=943452>).

¹³ Email from Sarah O. Schrup to Sarah E. Ricks (May 25, 2007) (on file with the authors).

¹⁴ See Evelyn Tenenbaum, *Encouraging Cooperation Between Legal Writing Programs and Pro Bono, Clinical, and Externship Programs* (LWI Biennial National Conference, Atlanta, GA, June 10, 2006) (available at LWI, <http://www.lwionline.org/publications/bibliographies2006.asp#r> [under Ricks, Wawrose, Klothen, Tenenbaum] (accessed Aug. 15, 2007)).

three clinics by having his advanced writing students research and draft memos on legal issues confronted by the clinics.

Other LRW faculty, such as Libby White (Villanova) and Nantiya Ruan (Denver), have crossed the clinical boundary by teaching in existing clinics in their law schools as part of their regular course load or as an overload. At least one law teacher has a joint appointment in the clinic and legal writing departments (Ruth Anne Robbins, Rutgers-Camden). Legal writing professors also teach externship courses (Susan Wawrose, Dayton; Barbara Blumenfeld, New Mexico; and many others) and the upper-level skills courses often considered clinical courses, such as negotiation, interviewing and counseling, and alternative dispute resolution (Katy Mercer, Case Western; Jessica Elliot, Roger Williams; and others). Legal writing faculty also teach courses typically associated with clinical education or pro bono programs; these include Legal Problems of Indigents (Jane Muller-Peterson, Penn State-Dickinson), Public Interest Law (Susan DeJarnatt, Temple), and an intrasession course on Human Trafficking (Sheila Miller, Dayton).

Many legal writing faculty provide guest lectures in clinic or externship classes on topics such as: “The Top Ten Suggestions for Writing Persuasive Motions” (Suzanne Rabe, Arizona State) and “Remember What We Learned Last Year?” (Ian Gallacher, Syracuse). Other topics that LRW faculty bring to clinic and externship students include writing client letters, writing tips for externships, and writing under pressure (Amy Dillard, Baltimore, when she taught at American); writing professional letters, making presentations, and drafting memos to the file (Aida Alaka, Washburn); and storytelling and persuasion (Ruth Anne Robbins, Rutgers-Camden). Legal writing faculty have also brought their expertise in a particular area of the law to their school’s clinics, such as Sheila Simon of Southern Illinois University who shares her knowledge and experience as a practicing attorney with students in the domestic violence clinic.

And it is not just LRW faculty who “cross over.” Clinicians talk to LRW classes about the realities of practicing law, the role of the clinic and the clinician, and the particular legal skills emphasized in clinical practice (*e.g.*, Deborah Mostaghel, Toledo). Clinicians or clinical students have helped make LRW assignments more realistic by acting in role plays or participating in mock client interviews (Deborah Schmedemann, William Mitchell; Danielle Shelton, Drake). Clinicians with expertise in a particular area have visited LRW classes when their expertise is related to students’ current assignment (*e.g.*, Mark Wojcik, John Marshall; Mary Rose Strubbe, Chicago-Kent). Moot court programs often are run by legal writing faculty or by clinicians, and both report assistance from their counterparts serving as judges, student advisors, and writing consultants.

Legal writing faculty also collaborate with pro bono programs. At Rutgers-Camden, Sarah Ricks and the Assistant Dean for Pro Bono Programs, Eve Biskind Klothen, created the Pro Bono Research Project to provide free legal research for non-profit organizations or government agencies. Faculty solicit discrete legal research assignments from practicing attorneys, and students

research and draft memos under the joint supervision of the outside attorney and a faculty member.¹⁵

Many legal writing faculty create assignments based on real cases. In a persuasive writing course, Tracy Bach (Vermont) simplified the summary judgment record for an actual landfill pollution case pending in the school's Environmental Clinic, assigned the summary judgment brief to her students, and invited the clinical faculty and students litigating the real case to judge oral arguments, which in turn helped the clinicians prepare for oral argument.¹⁶ Nantiya Ruan (Denver) assigned summary judgment briefs based on a composite potential client of a national non-profit agency and provided the best student briefs to the non-profit. Nancy Wanderer (Maine) requires first-year students to draft a bench memo based on the actual record of a pending Maine Supreme Court case, invites the real lawyers to guest lecture, and brings the entire class to the real oral argument.

Valuable cooperation among programs also occurs informally, outside the classroom, on topics such as teaching techniques, planning curriculum and courses, and addressing status inequities. At schools where skills faculty are housed in the same section of a building and isolated from the rest of the faculty, proximity to other skills faculty may result in more communication, even when it is attributable to lesser political clout.

Administrators at some schools have redesigned curricula to ensure collaboration. For example, at Case Western, the legal writing program was made part of the clinic (reported by Peter Friedman and Katy Mercer); at California Western, a newly designed legal writing course for second-year law students will be taught by a combination of LRW, doctrinal, and internship faculty (reported by Bobbie Thyfault); and at William Mitchell, skills and clinic–externship faculty team-teach a Writing and Representation course over three semesters (reported by Deborah Schmedemann). Even without an administrative directive, some LRW, clinical, and externship faculty check in with each other informally to make sure legal writing students are being sufficiently prepared for clinics or field experiences and, generally, to make sure both sets of faculty are “on the same page” (*e.g.*, Suzanne Rowe, Oregon, coordinating with externship programs; Barbara Tyler, Cleveland-Marshall).

Finally, scholarship discussions and presentations also bring different groups together. At Rutgers-Camden, faculty from clinical, legal writing, externship, and pro bono programs regularly hold scholarship workshops to present and discuss their draft articles in an informal, supportive environment (reported by Ruth Anne Robbins, Patty Legge, and Sarah Ricks). Legal writing faculty have also presented workshops to their faculty colleagues on teaching writing and practice skills (Judith Stinson, Arizona State) or have participated in

¹⁵ Wawrose & Ricks, *supra* n. 8.

¹⁶ See generally Tracy Bach, *Cooperation, Not Collision: A Response to When Worlds Collide*, 4 J. ALWD 62 (2007).

colloquia on teaching and scholarship organized by their own in-house clinics (Terrill Pollman, Nevada-Las Vegas).

The LWI Committee on Cooperation among Clinical, Pro Bono, and Legal Writing Faculty initiated a second survey of the legal writing community in May 2007 to expand and update the database of examples of cooperation. The second survey tool is broader than the first and includes new questions seeking information on whether it would be useful for clinicians and other faculty to share the same vocabulary for legal writing concepts and, if so, how to achieve that goal. When available, the 2007 survey results will be posted on the LWI website, www.lwionline.org.¹⁷ The Committee invites every legal writing teacher interested in experimenting with collaboration to visit the LWI web site to review the survey results for inspiration, contacts, and mentors.

¹⁷ As of August 2007, the latest survey questionnaire was available at <http://www.lwionline.org>; using the menu on the left, scroll down to “Surveys” and follow the “Cooperation Survey” hyperlink. For details about where to locate the summary of the 2006 survey results, *see supra* n. 8. The members of the 2007 Committee are Sarah E. Ricks, Chair (Rutgers-Camden); Susan Wawrose (U. Dayton); Tom Cobb (U. Washington); Tracy Bach (Vermont); Rebecca Scharf (Nevada-Las Vegas); Nancy Wanderer (Maine); Steven Schwinn (John Marshall); Deborah Schmedemann (William Mitchell); Evelyn Tenenbaum (Albany); Laurel Oates (Seattle); Margaret Philips (Buffalo); and Ariana Levinson (Louisville).