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## Courage in the Legal Writing Classroom Redefined

Karin Mika

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# AALS SECTION ON LEGAL WRITING, REASONING, AND RESEARCH

The Association of American Law Schools  
*Advancing Excellence in Legal Education*

## From the Chair



IVA FERRELL  
Widener University  
Deleware Law School

Dear Colleagues,

Happy Spring! The words of AALS President Melanie D. Wilson and her rationale for why she selected this year's theme resonate loudly both personally and professionally. From my vantage point, "Courage in Action" is a theme for which this Section is well suited. LWRR Faculty have always been the vanguard of legal education. We teach our students to think and analyze, not just as law students, but also in the manner in which they will engage in practice.

The real world hits our classroom doors first because we prepare students for that world. CHAT-GPT, which has only been around for a couple of years, is only one of the most recent examples of a ready or not here it comes real-world intrusion. Some of us have had our mettle tested by the mere thought of students using this type of technology for ill. Instead of shrinking, however, some of our colleagues are finding ways to work with this technology - activating their courage! What if we all could learn ways to do that?

The Program Committee, chaired by Lead Co-Chair Hilary Reed and Secondary Co-Chair Susie Salmon, is preparing incredible program offerings for the 2025 Annual Meeting in San Francisco, California.

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# MICRO-ESSAYS

*(Oral Advocacy, continued)*

The second oral reporting exercise is a supervisory conference, which occurs while students are writing a second objective memo. Roleplaying as a supervisor, I meet with students in pairs and ask them to describe their research and analysis. During the meeting, I ask students questions to help clarify their thinking, explore gaps in their research, and challenge their perspectives. Students find this oral exercise more intimidating than the first; being questioned by a professor-supervisor can be scary. But it helps them build courage to speak about their writing in a setting more closely resembling an oral argument.

In spring semester, I provide two opportunities for ungraded practice oral arguments. The first comes shortly after students write their first persuasive brief. I serve as the judge, and students argue for three to five minutes in front of the class. After the fall oral reporting exercises, students are more comfortable speaking in front of each other, so

being in each other's audience causes nervousness but not terror. It also instills confidence: students benefit from seeing each other's mistakes and hearing the questions and feedback I provide. The second practice exercise comes near the end of the semester, after students write their final persuasive brief and shortly before the final, graded oral arguments. This exercise is similar to the previous, but it is longer, and the class does not watch—making it a closer approximation of the final exercise.

Even with this incremental preparation, students still fear oral advocacy. But after incorporating these preparatory exercises into my classes, I have noticed an uptick in students' confidence when completing the final oral argument exercise—and an uptick in their performance as well. It may not be a panacea, but an incremental approach to teaching oral communication can help students develop the courage to successfully conquer their fear of oral advocacy.

## ***Courage in the Legal Writing Classroom Redefined***

Karin Mika

Cleveland State University School of Law

The Ohio Legislature's recent attempt (known as SB 83) to regulate the content discussed in college classrooms under the guise of ensuring ideological balance is a concerning trend. Many states have adopted (or proposed) similar legislation in their attempts to restrict discussion regarding the history of under-represented minorities, as well as issues related to inequality or social injustice. Some of the legislation even

includes penalties for teachers/professors who, in any way, highlight (or even discuss) the history and exploitation of minorities in this country, or problems of social inequality. This is especially problematic in law schools given that the entire history of law in this country is intertwined with the role inequality has played and how the courts have dealt with inequality.

Legal Writing professors have a unique vantage point in continuing to demonstrate the "courage" to highlight society's inequities while not necessarily

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# MICRO-ESSAYS

*(Courage Redefined, continued)*

breaking the laws in any overt way. This comes about through thoughtful problem selection and ensuring that the problems selected necessarily result in the students delving into the true and often ugly history of how underrepresented minorities have been treated within our legal system.

With respect to Ohio's SB 83 and other similar statutes, Legal Writing professors can still appropriately educate students about historical inequality through a form of neutrality. SB 83 and other comparable statutes do not often say directly that "liberal leanings" will be penalized, but rather focus on the need for neutrality and allowing students to reach their own conclusions. This is exactly what a good problem can achieve. Legal Writing seeks to teach students to view the law persuasively from all angles. As students are encouraged to do just this, they must necessarily challenge assumptions about seemingly neutral language and delve into the historical context that has shaped the law. This form of "neutrality" fosters critical thinking without the professor having to take a personal stance.

Law is a rich tapestry of cases with opposing viewpoints. Instead of shying away from controversial topics, professors can create assignments that encourage students to grapple with these complexities. For example, analyzing landmark cases on affirmative action or LGBTQ+ rights can expose students to diverse legal arguments and societal perspectives, all within the confines of non-liberal leaning legal analysis. First Amendment issues, especially those involving student protests, will give law students the opportunity to look in depth at both sides of the i

ssue. Even controversial issues focusing on abortion (and state attempts to find legal ways to curtail any access to abortion) provide the students with exposure to both sides without the professor necessarily taking a side.

State statutes prohibiting the teaching of "liberal-leaning" material have the potential of quieting voices that should be amplified. Maintaining courage in the face of restrictive legislation like SB 83 requires creativity. Legal Writing professors can foster critical thinking and prepare future lawyers by strategically utilizing teaching techniques that are seemingly neutral, but also force thoughtful consideration resulting in students becoming aware of historical injustices.

