

# Legal Writing Programs in Korean Law Schools: Possible Structures and Resources

Jo Ellen D. Lewis\*

## Abstract

*This article is based on information shared at a workshop the author presented in July 2009 at the invitation of Seoul National University and the Korean Association of Law Schools. The information that formed the basis of this article is from a segment of the workshop that was designed to assist Deans and other administrators with responsibility for designing legal writing courses in Korean graduate law schools. Possible structures for legal writing programs, including the length of the program, general topics that might be included in a legal writing course and potential faculty models are discussed in this article. The advantages and disadvantages of each type of faculty model are noted. In addition, this article identifies potential resources for assisting legal writing professors, including teaching assistants, research assistants and research librarians. The most recent, publicly available data regarding the types of program structures and resources used in American legal writing programs is also incorporated in this article.*

## I. Introduction

The Korean Ministry of Education recognized twenty-five graduate law programs at major Korean universities in February 2008 and the graduate law schools commenced classes in spring 2009. One of the required courses for all students enrolled in any graduate law program is a course on legal writing. I was invited to conduct a multi-day workshop for Korean law faculty on teaching legal writing based on the Legal Practice course (“LP Course”) that I teach at Washington University Law.<sup>1)</sup> While the bulk of the workshop

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\* Professor of Practice and Director of Legal Practice, Washington University Law, Washington University in St. Louis.

1) This article is based on a portion of a workshop that I conducted at Seoul National University on July 6-8, 2009. A video of the workshop session in which I present information on the topics discussed in this article is available for review through Seoul National University

addressed legal writing professors who are or will be teaching legal writing,<sup>2)</sup> I also shared information that would be helpful to Deans and administrators who are responsible for designing and staffing legal writing courses. In this article, I include information that discussed legal writing program structures, including resources.

Deans and other administrators will likely be responsible for choosing the particular structure for, and staffing of, legal writing programs. As administrators explore the possibilities, it is important to acknowledge that teaching legal writing is time and resource intensive both in terms of developing assignments, meeting with students and grading. There are several ways to structure a legal writing program to take advantage of resources available in each law school and its community. This article summarizes the most current data available on legal writing programs in American Bar Association accredited law schools. The article discusses the various structures for legal writing programs, with an emphasis on staffing, and describes resources for supporting legal writing professors. Finally, the article discusses implications for Korean legal writing education.

## II. Structure of Legal Writing Programs

### 1. Length and Coverage

The most prevalent length for required legal writing programs in the United States is a two-semester program.<sup>3)</sup> In a two-semester program,

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library at <http://event.snu.ac.kr/DetailView.jsp?uid=300&cid=3287914>. I would like to thank Seoul National University School of Law and the Korean Association of Law Schools for sponsoring the workshop. I would like to thank my colleague, Denise Field, Professor of Practice at Washington University School of Law, for her helpful comments on an earlier draft of this article. I would also like to thank Alyssa Razook, J.D., one of my teaching assistants for her assistance with this article.

2) See Jo Ellen D. Lewis, *Developing and Implementing Effective Legal Writing Programs*, 9 J. KOREAN L. 125 (2009) for a discussion of topics addressing issues of interest to legal writing professors.

3) According to the most recent publicly available survey conducted by the Association of Legal Writing Directors and the Legal Writing Institute (“ALWD/LWI 2009 Survey”), of the 166

research instruction is usually integrated with legal writing instruction. As discussed more fully below, research instruction may be taught by the legal writing professor or research instructors, including research librarians or student teaching assistants.<sup>4)</sup> In a two-semester program, during the first semester, objective analysis and communication of that analysis in writing is taught. Typical writing projects assigned during the first semester include office memoranda and client advisory letters. Second semester focuses on persuasive writing and advocacy. During the second semester, students often prepare a settlement letter, trial or appellate brief, and participate in an oral argument.

A minority of American law schools have three-semester required programs.<sup>5)</sup> In a three-semester program, research instruction is often taught the first semester. During the remaining two semesters, objective analysis and objective writing, and persuasive writing and advocacy, respectively, are taught. Some American law schools incorporate advanced legal writing courses in the upper class curriculum.<sup>6)</sup> Advanced legal writing courses can be vertical, where the focus is on one particular substantive area of the law, or horizontal, where the focus is on writing in a wide variety of substantive areas.<sup>7)</sup> Examples of a vertical advanced legal writing course are patent drafting, appellate brief writing, and litigation drafting. An example of a horizontal advanced legal writing course is a course in which the students

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U.S. schools that reported data, constituting 84% of all American Bar Association (“ABA”) accredited law schools, 99% of required legal writing programs are two-semester programs. See ALWD/LWI 2009 Survey at Question 12, <http://www.alwd.org/surveys.html>.

4) See *infra* Part III.C (discussing resources for teaching research).

5) About 27% of required legal writing programs have a three-semester legal writing program. See ALWD/LWI 2009 Survey at Question 12, <http://www.alwd.org/surveys.html>.

6) For accreditation, the ABA requires that every law student receive “*substantial instruction in: ... (2) legal analysis and reasoning, legal research, problem solving, and oral communication; (3) writing in a legal context, including at least one rigorous writing experience in the first year and at least one additional writing experience after the first year.*” A.B.A., STANDARDS FOR APPROVAL OF LAW SCHOOLS AND INTERPRETATIONS 2009-2010, Standards 302(a)(2)-(3), available at <http://www.abanet.org/legaled/standards/standards.html> (emphasis added). The required “additional writing experience” can be satisfied by other writing courses in lieu of a general advanced legal writing course. Examples of other writing courses include seminars where students are taught scholarly writing.

7) See ERIC B. EASTON, ET AL., SOURCEBOOK ON LEGAL WRITING PROGRAMS (2006).

have writing assignments in litigation, transactional law, and estate drafting, such as simple wills or codicils. Because advanced legal writing courses in American law schools are based on an assumption that a law student has successfully completed a basic legal writing course, and Korean law schools are just beginning to teach legal writing, I believe that Korean law schools should focus on the basic legal writing course prior to developing advanced legal writing courses.

## 2. Faculty Model

The decision regarding which faculty model to use to teach legal writing is primarily a resource issue. A law school must assess its faculty resources and monetary resources to determine which model is appropriate for that school. There are four major faculty models used to teach legal writing in the U.S. Those four models are: 1) full-time, long-term legal writing professors, including tenured and tenure-track professors; 2) full-time, short-term legal writing professors, including fellows; 3) adjunct professors; and 4) a hybrid model. Each model has advantages and disadvantages.

### 1) Full-Time, Long-Term Legal Writing Professors

Employing full-time, long-term legal writing professors is the most common model used to teach legal writing in American law schools.<sup>8)</sup> Many of these programs have a Director of Legal Writing whose responsibility it is to develop the program and to hire and train legal writing professors to teach in the program.<sup>9)</sup> At Washington University Law, this is the model we use. Schools that operate without a Director generally have legal writing professors who have taught in the program for a significant amount of time. The advantages of full-time, long-term legal writing professors are numerous. Full-time, long-term legal writing professors are fully committed to teaching legal writing as it is their primary responsibility. These professors are available to meet with students for conferences on a consistent basis and

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8) 53% of U.S. law schools have full-time, long-term legal writing professors teaching legal writing. See ALWD/LWI 2009 Survey at Question 10, <http://www.alwd.org/surveys.html>.

9) 81% of U.S. law schools have a Director of their legal writing program. See *id.* at Question 44.

during a variety of times. In addition, because such full-time, long-term legal writing professors are long-standing members of the law school faculty, they have an understanding of the entire law school curriculum and how the first-year legal writing program interrelates to the rest of the law school curriculum. It is therefore possible to coordinate the legal writing assignments with other first year legal courses. The major disadvantage of hiring full-time, long-term legal writing professors is the cost. Some full-time long-term legal writing professors desire to teach additional courses, which could result in a cost savings for the law school, but often the demands of teaching legal writing make teaching other courses difficult.

## 2) *Full-Time, Short-Term Legal Writing Professors*

Some American law schools employ legal writing professors on a short-term basis, including “fellows” through a fellowship program, to teach legal writing.<sup>10)</sup> Fellows are law school graduates who plan to enter academic teaching and seek a one-year or two-year non-tenure track position with a law school as an entry point to full-time teaching. During the fellowship, fellows teach a class, often legal writing, and spend the balance of their time conducting research and writing law review articles. The advantages of full-time, short-term legal writing professors, including fellows, to teach legal writing is that these legal writing professors are enthusiastic about teaching and bring many ideas from recent practice or a clerkship that can serve as the basis of challenging legal writing assignments. The disadvantage of using full-time, short-term professors to teach legal writing is that such legal writing professors, due to the nature of the teaching appointment, will only teach legal writing for a limited time and do not have time to develop their teaching skills. These professors may have little incentive to develop the legal writing course as they may not teach it more than once. In addition, fellows, in particular, may not have a specific or vested interest in teaching legal writing as the primary reason to seek a fellowship is to have the time to research and write articles. Teaching often is secondary to that goal.

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10) 1% of U.S. law schools employ fellows to teach legal writing. *See id.* at Question 11(h). For example, the University of Chicago employs fellows to teach legal writing through the Bigelow Fellowship program. *See* <http://www.law.uchicago.edu/prospectives/bigelow>.

### 3) *Adjunct Legal Writing Professors*

A small percentage of American law schools use adjunct professors to teach legal writing.<sup>11)</sup> Often a law school's own graduates teach as adjuncts. Such graduates are generally practicing attorneys in the community where the law school is located. One advantage of using adjunct professors, especially alumni, is that alumni remain involved and committed to the law school, which is important on many levels. In addition, adjuncts often bring a tremendous amount of real-world knowledge to their teaching, including topical cases to use as the basis of legal writing assignments. An adjunct teaching model is one of the least expensive models for teaching legal writing. Most adjuncts teach part-time for the privilege of teaching, not for the compensation. Adjunct professorships are considered prestigious positions to hold. The disadvantage of using an adjunct teaching model is that adjunct professors usually have a full-time legal practice, and therefore are not as available to meet with students as full-time, permanent faculty. Additionally, due to the demanding nature of a law practice, adjunct faculty will not have as much time to devote to teaching as full-time faculty for whom teaching is their primary or sole responsibility. Adjunct faculties often lack knowledge about the rest of the law school curriculum and how legal writing relates to students' other courses. Finally, the quality of teaching can vary dramatically depending on the teaching experience of the individuals who are teaching.

### 4) *Hybrid Model*

Law schools that use an adjunct faculty model often employ a permanent, full-time Director of Legal Writing as part of the law school's permanent faculty to direct the legal writing program and are considered a hybrid model.<sup>12)</sup> The Director may be responsible for hiring, training, supporting, and evaluating adjuncts who teach legal writing. A Director can create teaching materials and grading rubrics to insure consistency among the various legal writing classes. The Director is also responsible for making sure that the overall goals of the legal writing program are met by all students. The

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11) Adjunct faculties teach legal writing at 10% of U.S. law schools. See ALWD/LWI 2009 Survey at Question 10(g), <http://www.alwd.org/surveys.html>.

12) 35% of U.S. law schools employ a hybrid model to staff legal writing programs. See *id.* at Question 11(g).

advantage of this model is a lower cost but a higher quality control. Another advantage of a Director for an adjunct program is that the program will be centrally administrated so that other law school faculty and administrators know who to contact with questions about the legal writing program. The disadvantage of a hybrid program is that it can be difficult for a Director to manage a large number of adjunct faculty members. In addition, the quality of teaching can vary tremendously, although with a Director, there is more quality control than with an adjunct-only model.

### III. Resources for Support

The model of the program is very important and directly related to the quality and depth of the legal writing program. Notwithstanding the model, if teaching legal writing is a new area for faculty, it is important to provide adequate support for such faculty. Support is needed in terms of research assistance for developing legal writing assignments and assistance in meeting with students. Teaching assistants, research assistants, and research librarians can be tremendous resources for legal writing professors.

#### 1. *Teaching Assistants*

Teaching assistants are upper-class law students who have successfully completed the first year legal writing course. I hire teaching assistants to help develop legal writing assignments by doing background research and legal analysis. In addition, teaching assistants can teach classes on specific topics, such as citation or research with specific lesson plans and guidance from the legal writing professor. I ask my teaching assistants to meet with my legal writing students to review drafts of legal writing assignments for technical drafting issues. Teaching assistants are ideal sources of support for legal writing students as they know what is expected in the legal writing class. Often, the top students from the legal writing class the previous year are asked to serve as teaching assistants.<sup>13)</sup> A teaching assistantship is a

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13) 63% of legal writing programs at U.S. law schools use teaching assistants in some

prestigious position and one that is usually competitive. Teaching assistants can be compensated monetarily or with law school course credit.<sup>14)</sup> Because teaching assistants are still students, they will need a lot of training and guidance to be effective. In addition, directions regarding the kinds of student questions teaching assistants are permitted to answer must be very specific. Because it takes time to train teaching assistants, it is worthwhile to consider having the same teaching assistant for more than one year.

## 2. Research Assistants

Research assistants differ from teaching assistants in that research assistants primarily complete the research needed to develop legal writing problems and do not interact with students. Research assistants are usually paid, and often complete their work during the summer. It is common for a research assistant to assist in putting a legal writing problem together by drafting a “bench memo” for the legal writing professor. A bench memo explains the background research for the problem and identifies potential problem areas for students. Research assistants may even draft a sample student paper for a particular assignment. Similar to teaching assistants, research assistants will require guidance to assist in developing legal writing problems.

## 3. Research Librarians

If your law school is fortunate to have professional librarians on staff who are also law school graduates, such librarians can be a tremendous resource, depending on their availability and desire to assist. At some law schools, research librarians take primary responsibility for teaching legal research, and coordinating the teaching of research with the legal writing professors.<sup>15)</sup> In

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capacity. *See id.* at Question 93.

14) With respect to those U.S. law schools that employ teaching assistants in a legal writing program, 43% of such teaching assistants are compensated monetarily, and 28% are compensated with course credit. *See id.* at Question 98.

15) In 61% of U.S. law schools, research librarians either assist in, or have primary responsibility for, teaching legal research. *See id.* at Question 18. At Washington University Law,



addition, research librarians can assist legal writing professors in conducting background research for developing legal writing problems. The biggest limitations to a research librarians' ability to assist the legal writing professors are time constraints and other responsibilities. The availability of research librarians to assist in teaching legal research in connection with a legal writing class is a resource question that will likely require administrative input.

With all of these resources, guidance by the legal writing professor may be needed, which can be time consuming. However, ultimately, the ability to use teaching assistants, research assistants and research librarians will be a major benefit to the legal writing professor and the legal writing program. It is worthwhile to evaluate the resources available in your law school and your community as such resources enhance the legal writing program on many levels.

#### **IV. Implications for Korean Legal Writing Education and Conclusion**

The academic discipline of teaching legal writing has developed significantly and legal educators generally agree on the basic parameters of successful legal writing programs even though the structure of such programs may vary. While legal writing is now a required subject in the Korean graduate law schools, the specifics regarding what to teach and how to teach it are not certain. Such uncertainty actually creates an opportunity for each Korean graduate law school to develop a legal writing program that balances pedagogical and financial considerations unique to that school. Factors unique to the school include the law school curriculum as a whole, faculty, law school and university goals, policies and priorities.

Notwithstanding the variance in such factors among graduate law schools, the most important facet of a successful legal writing program is hiring faculty to teach legal writing who have a demonstrated understanding of the Korean legal profession, excellent research, analytical and writing skills, and a

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the professional library staff designed and teaches a required, rigorous legal research methodologies course for all first-year law students, which is coordinated with the legal writing course.

commitment to teaching law students how to communicate as lawyers. Because teaching legal writing is a new discipline in Korea, it may be difficult to find experienced legal writing faculty. It is recommended that irrespective of which staffing model is chosen, each Korean graduate law school hire an experienced legal writing professor to direct the legal writing program. The director of legal writing will be able to develop and evaluate the program over time and insure consistency in teaching among legal writing faculty.

Legal writing programs are varied and complex. The structure and staffing must be chosen to accomplish the particular goals of the writing program, but is necessarily dependent on resources. As Korean law schools develop legal writing programs, studying common practices and trends of well-developed programs can be instructive. Deans and other administrators are encouraged to review legal writing programs at various law schools, both in and outside of Korea, for information that can assist in the development of a legal writing program that not only satisfies the requirements of the Ministry of Education, but that will assist students in their preparation to become lawyers who communicate effectively in writing.

KEY WORDS: teaching legal writing and research, legal writing faculty, teaching assistants, research assistants

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