

Saint Louis University Law Journal

Volume 68
Number 3 *Teaching Legal Research, Writing,
Communication, and Feedback (Spring 2024)*

Article 4

2024

The Adaptable Legal Writer

Katrina Lee
lee.8755@osu.edu

Follow this and additional works at: <https://scholarship.law.slu.edu/lj>



Part of the [Law Commons](#)

Recommended Citation

Katrina Lee, *The Adaptable Legal Writer*, 68 St. Louis U. L.J. (2024).
Available at: <https://scholarship.law.slu.edu/lj/vol68/iss3/4>

This Article is brought to you for free and open access by Scholarship Commons. It has been accepted for inclusion in Saint Louis University Law Journal by an authorized editor of Scholarship Commons. For more information, please contact [Susie Lee](#).

THE ADAPTABLE LEGAL WRITER

KATRINA LEE*

ABSTRACT

Today, more than ever, lawyers must constantly adapt—quickly and with deliberateness. This Article shines a light on the need to teach law students adaptability in law practice, and the central role of the legal writing professor in that endeavor. Part II explores the need for adaptability in a lawyer’s career. Part III provides an overview of three adaptability approaches from the legal writing pedagogy literature: information literacy, genre discovery, and the contextual case method. Part IV closes with a reflection on key features of adaptability pedagogy in legal writing—curiosity, inquisitiveness, and ethicality—and its general application in legal education. At heart the adaptability approaches discussed in this Article require law students to methodically question and to work with integrity and ethicality. They compel legal writing students to practice activities that will help them adapt as lawyers in an ever-changing environment. All are invited to read this Article as a celebration of the legal writing professor’s critical role in legal education.

* A former litigator and law firm equity partner, Katrina Lee is the John E. Elam/Vorys Sater Professor in Law, Director of the Program on Dispute Resolution, and Director of LL.M. Legal Writing at The Ohio State University Moritz College of Law. She is the author of the course book, *The Legal Career: Knowing the Business, Thriving in Practice* (2d ed. 2020). She has served as the President of the Association of Legal Writing Directors. The Author dedicates this Article to her past, present, and future legal writing students. The Author is grateful to her research assistant Alexa (Lexi) Breitenstine for her help with this article, and to Ellie Margolis and Susan McMahon for their review and comments.

I. INTRODUCTION

Change in the legal world is reliably constant. To be effective, lawyers must be nimble. To have a long-lasting, productive legal career, they must be prepared to adapt at every stage.

The law, societal views, and technology commonly used during a law student's three years in law school will continuously evolve after the student graduates. Every year, new laws and new court cases are issued. People's viewpoints and public opinion change, impacting how laws are discussed, felt, and perceived. Societal and cultural shifts can lead to changes in societal expectations and demands and to evolution in the language of the law itself.¹ Events like the COVID-19 pandemic can have wide-ranging effects in the legal field and the practice of law. All the while, legal technology continues to evolve, with ChatGPT and other generative artificial intelligence (A.I.) platforms being the latest to make headlines.²

At a law school, the professor teaching the critical skills of legal analysis and writing is at the forefront of teaching law students to be adaptable. This teaching features an inherent tension. Students must learn expectations and conventions in the field. At the same time, they must learn to work independently for clients in unprecedented situations and responsibly meet the societal and legal challenges of tomorrow. And so, while the professor introduces students to structures and conventions of lawyer communication, they also lay the foundation for students to use their legal writing skills in new, unforeseen contexts in the future.³

1. Sometimes, societal shifts affect language itself. As society changes, language can change. For example, in her article *Get With the Pronoun*, Heidi K. Brown calls on fellow legal writers to use the singular "they" in specific circumstances as a "proactive tool to enhance clarity, accuracy, inclusion, and respect in legal documents." She urges lawyers and academics not to ignore societal shifts or else risk "disrespecting and alienating clients, litigants, finders-of-fact, and decisionmakers." Heidi K. Brown, *Get With the Pronoun*, 17 LEGAL COMM. & RHETORIC 61, 61-62 (2020).

2. See, e.g., Kevin Roose, *Aided by A.I. Language Models, Google's Robots Are Getting Smart*, N.Y. TIMES (July 28, 2023), <https://www.nytimes.com/2023/07/28/technology/google-robots-ai.html> [<https://perma.cc/4G7Q-276H>]; Kashmir Hill, *OpenAI Worries About What Its Chatbot Will Say About People's Faces*, N.Y. TIMES (July 18, 2023), <https://www.nytimes.com/2023/07/18/technology/openai-chatgpt-facial-recognition.html> [<https://perma.cc/RFD6-FZVN>]; Karen Weintraub, *Should You Ask ChatGPT for Medical Advice? We Asked an Expert – and ChatGPT*, USA TODAY (Apr. 3, 2023), <https://www.usatoday.com/story/news/health/2023/04/01/chatgpt-medical-advice-can-chatbots-trusted-what-know/11564379002/> [<https://perma.cc/SQC5-ZUKL>]; Kayla Jimenez, *ChatGPT in the Classroom: Here's What Teachers and Students Are Saying*, USA TODAY (Mar. 2, 2023), <https://www.usatoday.com/story/news/education/2023/03/01/what-teachers-students-saying-ai-chatgpt-use-classrooms/11340040002/> [<https://perma.cc/K3U7-KCSQ>].

3. For example, introducing the seemingly rigid framework of legal analysis—which can be represented by an acronym like CREAC (Conclusion, Rule, Explanation, Application/Analysis, Conclusion)—is and should be a staple of legal writing courses but can seem at first to be

This Article shines a light on the critical urgency of teaching, growing, and inspiring the adaptable legal writer in today's law schools and the central role of the legal writing professor in that endeavor. It will provide an overview of a few approaches to what I will call "adaptability pedagogy" in the legal writing field and draw common themes and lessons that may be instructive for all of legal education. Part II will explore the need for adaptability in a legal writer's career. Part III will provide an overview of three adaptability approaches from the legal writing pedagogy literature: information literacy, genre discovery, and the contextual case method. Part IV will close with a reflection on key features of adaptability pedagogy in legal writing—curiosity, inquisitiveness, and ethicality—and its general application in legal education. All are invited to read this Article as a celebration of the critical role of the legal writing professor in legal education.

II. A CRITICAL NEED

One of the most useful core lessons a legal writing professor imparts is that of adaptability. I teach legal writing every academic year. Early every semester, I share my big-picture goal that my students become lawyers who can adapt. All successful legal writers can adapt. "Adaptability" is defined as "the ability or willingness to change in order to suit different conditions."⁴ Perhaps more than any other quality, adaptability is the hallmark of a thriving, effective legal writer.

At a very foundational level, adaptability is needed because, in law practice, our students will not have a legal writing professor giving them feedback. In many legal writing courses across the country, law students receive detailed written feedback from their professors and participate in individual conferences with their professors. Students may also engage in guided self-assessment exercises. But, as lawyers, they will not have a legal writing professor engaging in one-on-one conferences about their work. In law practice, only a fortunate few will have colleagues with the interest, skills, and availability to give them helpful feedback on a regular basis as they progress in their careers.

Legal writing professors thus have the remarkable responsibility to help their students prepare for adapting to all kinds of change. This section identifies various categories of change that require lawyers to adapt if they wish to continue practicing effectively: societal, legal, and technology changes. It also discusses a need for adaptability inherent in practices that require lawyers to

antithetical in a class that must have a primary focus on adaptability in an ever-shifting context. Columbia Law School Writing Center, *Organizing A Legal Discussion (IRAC, CRAC, ETC.)*, COLUM. L. SCH., https://www.law.columbia.edu/sites/default/files/2021-07/organizing_a_legal_discussion.pdf [https://perma.cc/NYA8-2ELD].

4. *Adaptability*, CAMBRIDGE DICTIONARY, <https://dictionary.cambridge.org/us/dictionary/english/adaptability> [https://perma.cc/KDJ5-ZYQQ].

write many different types of documents. Finally, it briefly addresses the potentially shifting circumstances of the activity of writing.

Societal and legal changes. No matter the excellence of a student's work in a legal writing course, the excellence of a lawyer's writing across a career will depend on that lawyer's ability to respond to changing circumstances. Clients will encounter scenarios that were not even possible during the student's time in law school. For example, the COVID-19 pandemic presented a plethora of unprecedented legal issues. For example, the Supreme Court's 2023 decisions in *Students for Fair Admissions v. Harvard* (concerning affirmative action in higher education) and *303 Creative LLC v. Elenis* (concerning a graphic design business owner's claim that she should not be required to design a wedding website for gay couples) each has the potential to lead to profoundly changed societal environments and further legal developments.⁵

Technology changes. The very tools used by lawyers to write will likely change across the decades of a legal career. As a litigator and a business of law professor and scholar, I have enjoyed a front-row seat to many of the changes in legal technology. In the late 1990s, LexisNexis and Westlaw research platforms were growing and commonplace. Still, although legal research platforms added efficiencies to legal research, it was not unusual for lawyers doing research for a motion to have stacks of reporter volumes on their desk open to the case in the volume they were reading. Back then, some lawyers' communications still consisted of more letters than emails. In the 2000s, with the Blackberry ever-present for lawyer communications, lawyer emails became prevalent.⁶

In the 2010s, legal research took a leap, with faster innovative tools that looked and felt different. In 2014, I introduced my students to two new legal research tools, Casetext and Ravel. At the time, Casetext and Ravel were both shiny new start-ups. I wrote about the experience with two reference librarian colleagues. We described Ravel and Casetext as "next-gen" research tools.⁷ We discussed how law school professors who agreed those new tools merited a place in the legal skills curriculum had very little scholarship to consult about how those tools should be taught.⁸

I had a chance to speak with the Ravel start-up founders at their open-floor office space in 2016. They talked about providing a data-driven approach to research. Ravel was becoming known for their visualizations of data. A

5. See *Students for Fair Admissions, Inc. v. Pres. and Fellows of Harvard Coll.*, 143 S. Ct. 2141, 2147-48 (2023); *303 Creative LLC v. Elenis*, 143 S. Ct. 2298, 2303 (2023).

6. Katrina Lee, *Process over Product: A Pedagogical Focus on Email as a Means of Refining Legal Analysis*, 44 CAP. UNIV. L. REV. 655, 655-56 (2016).

7. Katrina June Lee, Susan Azyndar, & Ingrid Mattson, *A New Era: Integrating Today's "Next Gen" Research Tools Ravel and Casetext in the Law School Classroom*, 41 RUTGERS COMPUTER & TECH. L.J. 31, 32-34 (2015).

8. *Id.* at 60.

researcher could type in a case citation and, through the size of bubbles, see at a glance the period of time when the case was cited the most.⁹

The business of legal technology lurched forward. A year later, in 2017, LexisNexis announced it had acquired Ravel Law and touted the move as part of “LexisNexis’ vision to support the data-driven lawyer of the future.”¹⁰ In June 2023, Thomson Reuters announced it had acquired Casetext for \$650 million in cash.¹¹ Casetext has changed considerably since its beginnings as a legal information crowdsourcer. Today, the CoCounsel function in Casetext can summarize and “write” legal memos.¹² Lexis and Westlaw continued to grow, with advancements in the underlying artificial intelligence powering the platform. The Quick Check tool on Westlaw helped lawyers find additional authorities and check existing authorities.¹³ LexisNexis’s Brief Analysis tool allowed counsel to check an opponent’s brief and find weaknesses and opposing authorities.¹⁴

Meanwhile, ChatGPT and other generative A.I. tools have taken center stage in popular conversation, and specifically in the legal writing field.¹⁵ Some say ChatGPT may weaken the need for legal industry services.¹⁶ Before ChatGPT

9. KATRINA LEE, *THE LEGAL CAREER: KNOWING THE BUSINESS, THRIVING IN PRACTICE* 118-19, 127 (2017).

10. *LexisNexis Announces Acquisition of Ravel Law*, LEXISNEXIS (June 8, 2017), <https://www.lexisnexis.com/community/pressroom/b/news/posts/lexisnexis-announces-acquisition-of-ravel-law> [https://perma.cc/55EM-R4NJ].

11. Thomson Reuters, *Thomson Reuters Corporation Signs Definitive Agreement to Acquire Casetext*, PR NEWswire (June 26, 2023), <https://www.prnewswire.com/news-releases/thomson-reuters-corporation-signs-definitive-agreement-to-acquire-casetext-301863781.html> [https://perma.cc/BMF9-6HP7].

12. *Id.*

13. Westlaw Edge, *Quick Check*, THOMSON REUTERS, <https://legal.thomsonreuters.com/en/products/westlaw-edge/quick-check> [https://perma.cc/3645-EZKM].

14. InfoPro Community Manager, *Build Better Briefs and Arguments with the New Brief Analysis Tool*, LEXISNEXIS (Oct. 12, 2020), <https://www.lexisnexis.com/community/infopro/b/Inpu/posts/build-better-briefs-and-arguments-with-the-new-brief-analysis-tool> [https://perma.cc/9QHJ-5PDC] (last visited July 30, 2023).

15. Generative A.I. is defined on the technology company IBM site as follows: “Generative AI refers to deep-learning models that can take raw data—say, all of Wikipedia or the collected works of Rembrandt—and ‘learn’ to generate statistically probable outputs when prompted. At a high level, generative models encode a simplified representation of their training data and draw from it to create a new work that’s similar, but not identical, to the original data.” Kim Martineau, *What is Generative A.I.?*, (April 20, 2023), <https://research.ibm.com/blog/what-is-generative-AI> [https://perma.cc/Q5RS-KB95]; see also Hadley Van Vactor Kroll (@hadleyhowell), TWITTER (July 13, 2023, 2:17 PM), <https://twitter.com/hadleyhowell/status/1679555746810462209?s=20> [https://perma.cc/P566-PP9U] (“Full house to hear about ChatGPT and generative AI in the legal writing classroom at the @ALWD_tweets conference! #ALWD2023”).

16. See, e.g., Steve Lohr, *A.I. Is Coming for Lawyers, Again*, N.Y. TIMES (Apr. 10, 2023), <https://www.nytimes.com/2023/04/10/technology/ai-is-coming-for-lawyers-again.html> [https://perma.cc/98JR-TJ84] (“Law is seen as the lucrative profession perhaps most at risk from

entered the public consciousness, many had already taken for granted the ability to ask Siri or Google the answer to questions about the weather and news updates and random facts. Now, type in a legal query and ChatGPT can generate a purported legal analysis. That instant legal analysis may *sound* promising, but it may also (or may not) be flat-out wrong.¹⁷ One lawyer gained notoriety when he used ChatGPT for a court filing and cited cases provided by ChatGPT that were not real cases.¹⁸

Still, despite the fast pace of change, adaptability concerning research and writing technology must be cultivated, emphasized, and taught. A tendency in legal education and in the legal profession to stay with a particular tool or way of doing things can be strong. When I surveyed my first-year law students, I learned that, in just their first year of law school, many had already developed a preference for one major legal research platform over another because of their (perceived) greater exposure to the former.¹⁹

Variety of legal documents and variation in audience. Law students and junior lawyers must learn to be comfortable developing a type of legal document they've never written before. Lawyers communicate in ways that extend well beyond the legal memo, the legal email memo, the trial court-level brief, and the appellate brief—documents commonly taught in law schools. Legal writing can also encompass letters to decision-makers, policy research papers, investigation reports, rules and laws, and other documents. Take a look at the headlines of the largest daily newspapers. Readers will likely see many news stories where legal writing was the primary source or played a significant role in bringing about a reported outcome. From July 27, 2023 alone, for example, here are a few headlines that implicate or directly reference a legal writing document: *Biden's New Border Rules Don't Deter Venezuelans* (Wall Street Journal), *Justice Department Opens Civil Rights Investigation of Memphis Police* (New York Times), *Exclusive: Bill Would Eliminate Student Loan Interest for Most Borrowers* (USA Today).²⁰

the recent advances in A.I. because lawyers are essentially word merchants. And the new technology can recognize and analyze words and generate text in an instant. It seems ready and able to perform tasks that are the bread and butter of lawyers.”).

17. See Stephanie Francis Ward, *Can Chat G.P.T. Help Law Students Learn to Write Better?*, A.B.A. J. (Mar. 6, 2023), <https://www.abajournal.com/web/article/can-chatgpt-help-law-students-learn-to-write-better> [<https://perma.cc/286L-C7XW>] (Suffolk Law professor Dyane O’Leary noted a student’s observation that ChatGPT answers were “great at fluff” and “had a lot of words in the right ballpark” but the “answer was wrong”).

18. Benjamin Weiser, *Here's What Happens When Your Lawyer Uses ChatGPT*, N.Y. TIMES (May 27, 2023), <https://www.nytimes.com/2023/05/27/nyregion/avianca-airline-lawsuit-chatgpt.html> [<https://perma.cc/UE6C-AB4B>].

19. Lee, Azyndar & Mattson, *supra* note 7, at 67-68.

20. Michelle Hackman, *Biden's New Border Rules Don't Deter Venezuelans*, WALL STREET J. (July 27, 2023), <https://www.wsj.com/articles/bidens-new-border-rules-dont-deter-desperate-venezuelans-9a3c022b> [<https://perma.cc/6962-ZJXM>]; Rick Rojas, *Justice Department Opens*

Relatedly, lawyers write for different audiences and adapt their communication approach depending on the audience. In a day on a case, a litigator may communicate with their client, in-house counsel, opposing counsel, an arbitrator, and a law firm colleague.

Change in project-writing environment and writer's circumstances. While this Article focuses primarily on the categories of changes already listed above, legal writers must adapt in a number of other areas—the where, what, and when can differ depending on project circumstances. For example, the location of legal writing. Some can only write in their homes or in their favorite coffee shop or in a specific carrel in the library. Others can put on their headphones and write from just about anywhere. During COVID-19, for most, there was only one place to write—our homes, with our roommates or family members present. All. The. Time.

Even the primary writing instrument has changed and required adaptation. Should writing be done by hand, through dictation using a handheld cassette recorder, by typewriter, by tablet, or by laptop computer? For most, the answer may be obvious: our laptops. But how about the reMarkable tablet which allows for writing by hand on a screen instead of paper?²¹

In law, timing can vary and require adapting—from a very short turnaround time of just a few hours to a few weeks. Some of us are morning people and can only write our best when there are no distractions while others are sleeping. Others of us find our most productive writing time in the evening, when home is quiet after a long day of activity. Things begin to flow. But writers can't always choose the time of day when writing must happen.

Legal writers also must adapt to themselves, including their own moods and emotions. Legal writers need to take stock and sometimes even walk away from their projects and come back to them in a clearer, more productive state.

In sum, lawyers don't write in a non-permeable bubble. Law students and lawyer writers must be avid adapters.²² Luckily, the legal writing field has been a leading force in teaching adaptability skills-building.

Civil Rights Investigation of Memphis Police, N.Y. TIMES (July 27, 2023), <https://www.nytimes.com/2023/07/27/us/memphis-police-civil-rights-investigation.html> [https://perma.cc/H6MQ-UC4U]; Alia Wong, *Student Loan Interest Crisis? New Bill Could Eliminate Rates for Many Borrowers*, USA TODAY (July 27, 2023), <https://www.usatoday.com/story/news/education/2023/07/27/student-loan-interest-rate-bill/70472419007/> [https://perma.cc/6BUM-8N7K].

21. reMarkable, remarkable.com [https://perma.cc/9UW2-9XH2] (last visited Sept. 2, 2023).

22. The idea that adaptability is a key lesson for lawyers aligns with the building blocks of minimum competence that appear in the findings of the foundational 2020 *Building a Better Bar* study. The researchers identify minimum lawyer competence as consisting of 12 interlocking components, including, rather than memorizing detailed rules, interacting and communicating effectively with clients and being effective self-learners. Deborah Jones Merritt & Logan Cornett, *Building a Better Bar*, 2020 INST. ADVANCEMENT AM. LEGAL SYS. (Dec. 2020), https://iaals.du.edu/sites/default/files/documents/publications/building_a_better_bar.pdf [https://perma.cc/9ZQH-2GZN].

III. ADAPTABILITY PEDAGOGY MODELS

Learning to adapt to new circumstances, new tools, and different audiences is one of the greatest lessons legal writing instructors can impart. This Part explores three frameworks that help legal writing professors teach students to adapt in different ways.

Research: the “information literacy” paradigm. Adaptability has become a lynchpin of teaching legal research, an area where the technology tools have become smarter, faster, and more intuitive every year (or every month). Ellie Margolis and Kristen E. Murray, more than a decade ago, argued for use of an information literacy paradigm when teaching legal research, which scholars have labeled as having three components: strategy, context, and source evaluation.²³ Margolis and Murray posited a dichotomy between finding sources and evaluating them, with an emphasis on evaluation.²⁴ The process of legal research, with the ready availability of sources, is less about finding and more about evaluating what has been found.²⁵ Their work echoes other scholars’ emphasis on the importance of teaching students how to link concepts they have learned about to new contexts.²⁶

Building from Margolis, Murray, and others’ work, in our “next-gen research” article, my co-authors and I highlighted the benefits of exposing students to a variety of research tools, including the latest low-cost and free online legal research alternatives.²⁷ Exposure to a variety of tools while emphasizing the guidance of the information literacy paradigm might help disrupt students’ entrenchment with one specific platform. Our work with students revealed that, in just less than a year of law school, many students had become firmly attached to one research platform.²⁸ Having students engage critically with a variety of tools can help prepare students to adapt in practice and to the cost constraints of a particular employer or client.

Early exposure to a variety of research platforms with information literacy training will also put students in a better position to change tools when one is not working for their learning or working style.²⁹ That teaching approach accords with pedagogy scholars’ focus on the concept of metacognition, a person’s self-monitoring of their own cognitive processes, and on helping

23. Ellie Margolis & Kristen E. Murray, *Say Goodbye to the Books: Information Literacy as the New Legal Research Paradigm*, 38 U. DAYTON L. REV. 117, 120, 129-31 (2012) [hereinafter *Say Goodbye*]; Ellie Margolis & Kristen E. Murray, *Teaching Research Using an Information Literacy Paradigm*, 22 PERSPECTIVES: TEACHING LEGAL RES. & WRITING 1, 8 (2014).

24. *Say Goodbye*, *supra* note 23, at 152-56.

25. *Id.*

26. Susan W. Wawrose, *What Do Legal Employers Want to See in New Graduates?: Using Focus Groups to Find Out*, 39 OHIO N.U. L. REV. 505, 552 (2013).

27. Lee, Azyndar & Mattson, *supra* note 7, at 57.

28. *Id.* at 67-68.

29. *See id.* at 68.

students become self-regulated learners.³⁰ Lawyers and law students may be reluctant to change if they are not equipped with a process of adapting to something new and with experience implementing that process.

My co-authors and I argued for a universal teaching approach that could be applied today to using ChatGPT and other generative AI tools:

[T]hose who teach legal writing and research emphasize the sameness of the legal research process: issue spotting, identifying key search terms, and looking at secondary sources. Emphasis on this process gives students something fixed to rely on regardless of whether their research takes them online, to print material, or to some as-yet-created research context. . . . Part of the law school professor's job is to demonstrate to students that the more things change, the more they stay the same—i.e., teach students to connect prior learning to new contexts. In short, developing a basic research strategy remains vital, as does the ability to apply those strategies to new tools.³¹

Teaching research with an emphasis on evaluation also can help students be less fearful of new technology and more likely to be curious and asking questions about how the new technology can be leveraged for themselves and their careers.³²

Advocating in a changing world: the “contextual case method.” Adaptability requires openness of mind. Often, studying opinions comes with inherent constraints. Students have in the past been taught to dwell within the pages of the opinion and not wander beyond. Sherri Lee Keene and Susan A. McMahon have proposed moving students from a traditional closed case method to a *contextual* case method.³³ They argue for assigning additional materials, like briefs or legal scholarship, that provide “a different perspective on the questions answered in the opinion”³⁴: “[w]e must surround the opinion with other voices, other arguments, other approaches, to open the students’ minds and allow them to envision other modes of legal argument or new frameworks for the law.”³⁵

30. *See id.* at 41.

31. *Id.* at 57-58.

32. *See* KATRINA LEE, THE LEGAL CAREER: KNOWING THE BUSINESS, THRIVING IN PRACTICE 293 (2d ed. 2020) (noting in an interview with Professor Caitlin Moon that “‘Law school is a safe space for students to try new things and learn. I want all of them to be those lawyers who don’t blink an eye when their employers say, ‘You have to use this new platform, this new software.’ They won’t have an innate fear of trying a new technology. I don’t know if they’ll love it, but they’ll not have fear. They’ll have curiosity. They’ll ask, how do I leverage this?’”).

33. *See generally* Sherri Lee Keene & Susan A. McMahon, *The Contextual Case Method: Moving Beyond Opinions to Spark Students’ Legal Imaginations*, 108 VA. L. REV. ONLINE 72 (2022), <https://virginialawreview.org/articles/the-contextual-case-method-moving-beyond-opinions-to-spark-students-legal-imaginations/> [https://perma.cc/98ZQ-LRV4].

34. *Id.* at 82.

35. *Id.*

The phrase “open students’ minds” is key for adaptability. The legal writing professor’s goal should be to help students work and flourish with the open minds they brought to law school, rather than shutter students’ minds when they arrive at law school. Professors advocating for sharing context with our students acknowledge, in the words of Keene and McMahon, that “legal decisions involve choices” and ultimately “allow students to sharpen their ability to see where some experiences and realities are relevant but nonetheless ignored in legal discourse.”³⁶

When students are allowed to open their minds to the universe of perspectives and realities that feed or surround the opinion, legal writing professors help enable students to adapt to the entirety of the circumstances faced by individuals and communities impacted by the law. They are helping students find those “spaces to advocate for change.”³⁷ As Teri McMurtry-Chubb proclaims, “[a] heart for justice is not sufficient to do justice.”³⁸ Legal writing professors and other law school faculty must adjust curricula to create these spaces and help open and keep open the minds of future lawyers.³⁹

Writing unfamiliar legal documents: using “genre discovery.” Law students can expect to be asked in their future law practices to write legal documents they’ve never written before. They will need to understand how to adapt when that happens. The types of legal writing are broad and varied and can include legislative bills, legal memoranda, judicial orders, litigation documents filed by counsel, counsel correspondence, and contracts. Each category of legal writing can be broken down into subcategories. Counsel correspondence can include demand emails, letters to the court, and negotiation communications.

Fortunately for today’s law students, legal writing scholars Alexa Z. Chew and Katie Rose Guest Pryal developed the “genre discovery approach” for teaching students to engage in the process of writing unfamiliar legal document types. The genre discovery approach helps prepare students to independently write unfamiliar legal documents in later classes and in the workplace.⁴⁰ Chew and Pryal provide meticulously created samples of different document types along with questions that help guide students in their study of the samples.⁴¹

The genre discovery approach shows students how, with guided methodical study, they don’t have to feel intimidated or overwhelmed by the prospect of

36. *Id.* at 83.

37. *Id.*

38. Teri A. McMurtry-Chubb, *The Practical Implications of Unexamined Assumptions: Disrupting Flawed Legal Arguments to Advance the Cause of Justice*, 58 WASHBURN L.J. 531, 576 (2019).

39. *Id.*

40. ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, *THE COMPLETE LEGAL WRITER* 27 (2d. ed. 2016).

41. *Id.* at 27-28.

writing a type of document they've never written before.⁴² Breaking down a sample of that type of document can enable a student or lawyer to create that type of document for their client's matter. Chew and Pryal offer a "rhetorical triangle" to help with adapting to a new type of legal document.⁴³ Using the three sides of the "rhetorical triangle," they counsel students to consider 1) the target legal audience, 2) purpose of the document, and 3) persona—that is, how the writer is perceived.⁴⁴ Finally, they teach students to use authorities to support their legal writing.⁴⁵

Genre discovery could be understood at the core as a journey of adaptation. Genre discovery is described by Chew and Guest Pryal as a journey to understanding the conventions of the flexible, ever-changing rules of a genre.⁴⁶ The steps they offer help the future lawyer to work independently even when challenged by creating a new document—identifying the genre (for example, demand letter) and its purpose and audience, locating strong samples, creating a document map, and putting that all together and writing.⁴⁷

As with the information-literacy approach to research and the contextual case method, the genre-discovery approach requires the legal writer to adapt to a new-document assignment with inquisitiveness.

IV. IN CLOSING

The more things change and the faster things change, the more critical it is for lawyers to adapt with deliberateness. Processes that center questioning and curiosity are necessary tools for lawyers. I have highlighted three approaches advanced by legal writing professors—information literacy, contextual case method, and genre discovery—that at their core require law students to methodically question.⁴⁸

When legal writing professors incorporate adaptability approaches in their legal writing courses, they show the way to navigating a constantly evolving legal world. They uncover how "thinking like a lawyer" means being adaptable

42. *Id.* at 4.

43. *Id.* at 5-8.

44. *Id.* at 5.

45. *Id.* at 8.

46. *Id.* at 27.

47. *Id.* at 27-35.

48. This Article is not the first to discuss the legal writer's need to adapt, and it will not be the last. *See, e.g.,* Wayne Schiess & Elana Einhorn, *Issue Statements – Different Kinds for Different Documents*, 50 WASHBURN L.J. 341, 341 (2011) ("Our recommendations reflect our belief that no lawyer should frame issue statements with a single approach. Each type of document serves a different purpose, is directed to a different audience, and potentially calls for a different approach. In adapting to those different purposes and audiences, lawyers should know the traditional conventions but should choose efficiency, readability, and effectiveness over outmoded conventions.").

at many levels.⁴⁹ They demonstrate that being adaptable requires grounding in curiosity, inquisitiveness, and ethicality.⁵⁰ When the lawyer used ChatGPT and encountered and referenced fake cases, he was adapting unsuccessfully to new technology.⁵¹ At best, he was nimble enough to try it but then did not ask questions about what he found. He did not do the checking that ethicality requires. He was not working with a framework akin to the rhetorical triangle or the information literacy paradigm.

Legal writing professors have innovated adaptability pedagogy approaches that can be the inspiration for changes in legal education prioritizing cultivation of adaptability-skills learning. Imagine, for instance, if legal education and law schools were even more interdisciplinary and more global.⁵² Law students would be better equipped to pivot and adapt as advocates and representatives to clients' and the world's shifting circumstances.

At heart, the adaptability approaches discussed in this Article require students to work with integrity and ethicality. They compel legal writing students to engage in activities that will help them adapt in an ever-changing environment, including: Ask questions. Check sources. Don't assume. Keep reading. In time, the superpower of adaptability will sink in, allowing the joy of lawyering to flourish.

49. LEE, *supra* note 32, at 277. Professors Caitlin Moon and Alyson Carrel developed the Delta Model, a holistic model that can help students and legal professionals be more resilient in the face of change. DESIGN YOUR DELTA, designyourdelta.com [<https://perma.cc/FR2T-EPZW>] (last visited Aug. 2, 2023).

50. Professor Moon proposes combining "mindsets like empathy, curiosity, and radical collaboration, with the traditional 'thinking like a lawyer' mindset." LEE, *supra* note 32, at 296.

51. See Weiser, *supra* note 18.

52. See, e.g., Dorothy Brown, *Law School Without Borders*, 45 SETON HALL L. REV. 1050, 1062 (2014) ("The law school that would best prepare lawyer-leaders would require students to be taught not only by law professors, but also by historians, psychologists, business school professors, doctors, sociologists, and economists, among others. In some instances law school classes would be co-taught with faculty in other disciplines. In other instances law students would take classes with students from other disciplines in other departments taught by non-law school faculty, and the students would be required to apply their knowledge in a legal context to make it legally relevant.").