The Two different types of legal writing

Attorneys use legal writing as the means by which they express their analyses of issues, and as a way to persuade others on behalf of their clients. Legal documents must be clear and concise, and they must remain consistent with the standards of the legal profession.

Persuasion is the second type of legal writing. Appellate briefs and negotiation letters written on behalf of clients are included in this group. The lawyer must persuade his or her audience while being both respectful and succinct.

Professor Rachel King is a legal writing instructor at Howard University School of Law in Washington, DC. Her desire to work for social justice led her to law school, and she has been a lawyer since 1990. The opportunities to make a difference and to work for causes she believes in are the two things she enjoys most about being in the profession.

King made the transition to teaching through the Association of American Law Schools’ Faculty Recruitment Services. She was invited to interview for the position at Howard University and was subsequently hired. King works with students to teach them both predictive writing—writing that predicts the outcome of a particular legal problem—and persuasive writing—writing to convince an audience of a particular position.

Said King, "Legal writing is more complicated than expository writing because not only does the writer need to be a good writer, [he or] she also needs to know how to research and analyze the law. Besides knowing the rules of grammar, punctuation, etc., [he or] she also needs to know how to properly cite the law."

There is a third type of legal writing that applies to the drafting of contracts, wills, and other legal documents. If an attorney improperly drafts a document, the end result may be unnecessary litigation or other damages to the best interests of the client.

The citation system in legal writing is quite distinctive. A knowledgeable researcher can navigate his or her way through the material and locate cited authorities, but those outside the profession may be thoroughly
overwhelmed by the vernacular. In many instances, the specific citation format used must be filed with the court. However, with ever-increasing changes in electronic legal research, online and disk-based law collections have become the primary research tools for many lawyers and judges. There is growing pressure on the courts to establish new citation rules that no longer take for granted that a print volume has been used as the key reference.

Working directly with students is what King said she enjoys most about being a legal writing instructor. Legal writing teachers have more one-on-one contact with students than substantive law teachers have. But one of the biggest problems that she sees in teaching legal writing is that, as a whole, the profession does not enjoy the same status as teaching substantive law courses does.

“This is unfair because teaching legal writing is very difficult—at least [as difficult], if not more difficult than teaching other subjects,” said King. "The low status also reinforces to students that the subject matter is not as important as [it is in] the other courses. Most law schools acknowledge that legal writing is probably the most important subject that students study in law school; however, the pay and status that legal writing teachers receive does not reflect this value.”

Professor King said that she has been greatly influenced by many people, mostly women, who have supervised her over the years. “I have been blessed to have great supervisors, who became mentors. Recently, I have been very influenced by Laura Murphy and Diann Rust-Tierney, both of whom were my supervisors when I worked at the Washington National Office of the ACLU,” said King.

In her spare time King enjoys, among other things, running and photography. "I am married and have three step-daughters and one step-cat,” said King. "I [also] like to do outdoor things, like hike and camp.”

And her advice for law students and attorneys who want to improve their legal writing skills? Practice, practice, practice!