

ON WOMEN PROFESSORS WHO TEACH LEGAL WRITING: ADDRESSING STIGMA AND WOMEN'S HEALTH

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ABSTRACT

Since the late 1980s, legal writing (LW) professors have been disproportionately white women because the LW field has been stigmatized as “women’s work.” As a result, these teaching positions typically have been low status and afforded with less pay and job security in comparison to tenure-track doctrinal law professor positions. Compounding—or intersecting—with the stigma of teaching LW are LW professors’ social statuses as women and/or other marginalized statuses. These statuses intersect and influence how and what they teach and the legal academy’s attitudes toward them.

Although previous scholarship has briefly addressed legal skill classes’ stigmatization, no scholarship to date has applied a systematic, feminist sociological approach to this problem. The benefit of this interdisciplinary approach is that it unveils not only the gender equity but also the health equity aspects of this issue in law schools. Using sociological concepts—public stigma and self-stigma—this Article examines the stigma associated with LW within the U.S. legal academy and outlines possible negative consequences on LW professors’ health. Public stigma refers to negative views the legal academy attaches to LW professors because of what they teach—legal writing—and any other devalued statuses whereas self-stigma refers to negative views LW professors attach to themselves. Additionally, this Article proposes social contact—the only proven method for lessening stigma—to lessen stigma against LW and LW professors. More specifically, this Article recommends that the American Bar Association and law schools

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facilitate social contact among LW and doctrinal professors and the law school community by changing their policies so that LW and doctrinal professors enjoy the same rights.

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INTRODUCTION

Stigma worsens people’s lives—the same holds true for legal writing (LW) professors, nearly 80% of whom are women (and mainly white women)—at American law schools.¹ Stigma is the simultaneous stereotyping and attachment of a socially undesirable characteristic to a person in the context of power differences, which results in discrimination and status loss.² For LW professors, stigma operates through the association of LW with “women’s work.”³ As with anything that is associated with “women’s work”

1. See, e.g., Bernice A. Pescosolido, *The Public Stigma of Mental Illness: What Do We Think; What Do We Know; What Can We Prove?*, 54 J. HEALTH & SOC. BEHAV. 1, 1–21 (2013); see Ted Becker et al., ALWD/LWI LEGAL WRITING SURVEY, 2020–2021: REPORT OF THE INSTITUTIONAL SURVEY iii, 123–24 (2020) [hereinafter ALWD/LWI 2020–2021 SURVEY] <https://www.alwd.org/images/resources/2020-2021-ALWD-and-LWI-Individual-Survey-report-FINAL.pdf> (showing that of the 182 law schools and 332 Legal Research and Writing (LRW) professors who participated in the survey, 245 of the 320 professors—or 76.6%—identified as “female” and 277—or 86.6%—identified as “White”).

2. See Bruce G. Link & Jo C. Phelan, *Conceptualizing Stigma*, 27 ANN. REV. SOCIO. 363, 363, 367 (2001); see also Valarie K. Blake, *Remediating Stigma-Driven Health Disparities in Sexual Minorities*, 17 HOUS. J. HEALTH L. & POL’Y 183, 196–97 (2017).

3. See, e.g., Pamela Edwards, *Teaching Legal Writing as Women’s Work: Life on the Fringes of the Academy*, 4 CARDOZO WOMEN’S L.J. 75, 75 (1997); Kathryn M. Stanchi & Jan M. Levine, *Gender and Legal Writing: Law Schools’ Dirty Little Secrets*, 16 BERKELEY WOMEN’S L.J. 3, 5 (2001); Robert Steinbuch, *Finding Female Faculty: Empirically Assessing the Current State of Women in the Legal Academy*, 36 WOMEN’S RTS. L. REP. 375, 376–77 (2015); Jamie J. Baker, *The Intersectionality of*

in America's heteropatriarchal society, LW's association with women results in the systemic devaluation of LW—and those who teach it—“within the legal academy.”⁴ Law schools typically illustrate their undervaluing of LW by providing LW professors with less job security by making most full-time LW positions non-tenure track, which typically come with less pay—yet equivalent or more hours—in addition to less prestige and faculty voting rights.⁵ The American Bar Association (ABA) incentivizes this discrimination through its Standards and Rules of Procedure for Approval of Law Schools (ABA Standards), which allow law schools to hire LW professors on non-tenure track and short-term contracts.⁶ Within the legal academy, these constitute the tangible consequences of sexism through the stigma process.

This Article is thus not about mere inter-departmental politics or disgruntled LW professors. In fact, many LW professors, myself included, could not imagine doing any other kind of work because we enjoy teaching our students—so much so that we are willing to endure our lower status in comparison to our tenure-track or tenured law professor counterparts. Instead, this Article is about the systemic, disparate treatment of predominately women faculty within a field through its stigmatization as women's work and how this mistreatment harms women's health.⁷ When this

Law Librarianship & Gender, 65 VILL. L. REV. 1011, 1016 (2020); Steven K. Homer, *Hierarchies of Elitism and Gender: The Bluebook and the ALWD Guide*, 41 PACE L. REV. 1, 38–39 (2020); Catherine Martin Christopher, *Putting Legal Writing on the Tenure Track: One School's Experience*, 31 COLUM. J. GENDER & L. 65, 66–67 (2015); Mary Nicol Bowman, *Legal Writing as Office Housework?*, 69 J. LEGAL EDUC. 22, 22 (2019).

4. Edwards, *supra* note 3, at 79; Stanchi & Levine, *supra* note 3, at 5; Steinbuch, *supra* note 3, at 376–77; Baker, *supra* note 3, at 1016; Homer, *supra* note 3, at 39; Christopher, *supra* note 3, at 66–68; Bowman, *supra* note 3, at 22.

5. See, e.g., ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iv (showing that of the 300 LRW professors surveyed, only 87 or 29% had traditional or programmatic tenured or track-track positions); see *Becoming a Law Teacher: Legal Research & Writing*, ASS'N OF AM. L. SCHS., <https://teach.aals.org/lrw/> (last visited Dec. 15, 2023); Baker, *supra* note 3, at 1017; Homer, *supra* note 3, at 36–37; Christopher, *supra* note 3, at 70–72; Ann C. McGinley, *Reproducing Gender on Law School Faculties*, 2009 BYU L. REV. 99, 102–03 (2009).

6. See AM. BAR ASS'N, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2022–2023, Standard 405(d), at 31–32 (2022) [hereinafter ABA STANDARDS] https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/standards/2022-2023/2022-2023-standards-and-rules-of-procedure.pdf; see also Melissa H. Weresh, *The History of American Bar Association Standard 405(d): One Step Forward, Two Steps Back*, 24 J. LEGAL WRITING INST. 125, 136, 146 (2020).

7. See, e.g., Edwards, *supra* note 3, at 77 (suggesting women are overrepresented in non-tenure track, LW positions because of the association between LW's “low status” in the legal academy and women's caregiving duties); Ederlina Co, *Weathering Invisible Labor*, 51 SW. L. REV. 258, 270–71 (2022) (discussing how women of color especially tend to experience negative health effects such as increased stress and “accelerated aging” because of “raceXgender bias” in the legal academy).

discrimination against LW professors intersects with their other marginalized statuses and identities, including their gender, sexuality, race, and disability, within the legal academy, already a historically unwelcome institution for women and minorities alike, the stigma may become exacerbated.⁸ Simply put, LW professors already face an uphill battle because they teach a course that has been devalued. So when a woman LW professor must learn to navigate that devaluation, in addition to being devalued herself based on gender stereotypes that label her incompetent to teach law, her journey through this web of discrimination becomes utterly exhausting.⁹ Not only is experiencing sexism exhausting, but it also harms women's health.¹⁰ Thus, this discrimination against LW professors constitutes not only an equity issue but also a public health issue.

Combining not only sociology but also feminist theory and autoethnography, this Article builds upon the scholarship regarding LW

8. See, e.g., Co, *supra* note 7, at 270–71; Jerome McCristal Culp, Jr., *Autobiography and Legal Scholarship and Teaching: Finding the Me in the Legal Academy*, 77 VA. L. REV. 539, 544–46, 548, 550–51 (1991); Pamela J. Smith, *Teaching the Retrenchment Generation: When Sapphire Meets Socrates at the Intersection of Race, Gender, and Authority*, 6 WM. & MARY J. WOMEN & L. 53, 106 (1999); Lorraine K. Bannai, *Challenged X 3: The Stories of Women of Color Who Teach Legal Writing*, 29 BERKELEY J. GENDER L. & JUST. 275, 275–76 (2014); Antoinette Sedillo Lopez, *Latinas in Legal Education Through the Doors of Opportunity: Assimilation, Marginalization, Cooptation or Transformation?*, 13 AM. U. J. GENDER SOC. POL'Y & L. 109, 120 (2005); Kimberlé Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics*, 1989 U. CHI. LEGAL F. 139, 140, 149 (explaining in the context of employment discrimination cases that Black women may be discriminated against because of their race and gender, social statuses that intersect and exacerbate the discrimination they experience); VIVIAN M. MAY, PURSUING INTERSECTIONALITY, UNSETTLING DOMINANT IMAGINARIES 23–24 (2015); PATRICIA HILL COLLINS & SIRMA BILGE, INTERSECTIONALITY 2–4 (2d ed. 2020) (discussing how various social statuses—including but not limited to race, gender, sexual orientation, ability/disability, and class—may intersect and affect people's lived experiences).

9. See Smith, *supra* note 8, at 106; Bannai, *supra* note 8, at 275–76; Ann Bartow, *Some Dumb Girl Syndrome: Challenging and Subverting Destructive Stereotypes of Female Attorneys*, 11 WM. & MARY J. WOMEN & L. 221, 243 (2005).

10. See Annie Ro & Kyung-Hee Choi, *Effects of Gender Discrimination and Reported Stress on Drug Use Among Racially/Ethnically Diverse Women in Northern California*, 20 WOMEN'S HEALTH ISSUES 211, 211–12, 214–17 (2010); Catherine E. Harnois & João L. Bastos, *Discrimination, Harassment, and Gendered Health Inequalities: Do Perceptions of Workplace Mistreatment Contribute to the Gender Gap in Self-Reported Health?* 59 J. HEALTH & SOC. BEHAV. 283, 283–88, 289–97 (2018); Georgina M. Hosang & Kamaldeep Bhui, *Gender Discrimination, Victimization and Women's Mental Health*, 213 BRIT. J. PSYCHIATRY 682, 682–84 (2018); Simone N. Vigod & Paula A. Rochon, *The Impact of Gender Discrimination on a Woman's Mental Health*, 20 ECLINICALMEDICINE 1, 1 (2020); GAËLLE FERRANT & ALEXANDRE KOLEV, OECD DEV. CENTRE, THE ECONOMIC COST OF GENDER-BASED DISCRIMINATION IN SOCIAL INSTITUTIONS 1–2 (2016), https://www.oecd.org/dev/development-gender/SIGI_cost_final.pdf; Carmen G. González & Angela P. Harris, *Presumed Incompetent: Continuing the Conversation (Part I)*, 29 BERKELEY J. GENDER L. & JUST. 183, 185–86 (2014); Co, *supra* note 7, at 270–71.

professors' "second-class status" through the lens of stigma.¹¹ More specifically, this Article discusses two stigma types: public stigma and self-stigma. While public stigma refers to denied opportunities—the discrimination—experienced by those with marginalized statuses, self-stigma refers to negative views individuals attach to themselves based on negative stereotypes associated with their marginalized statuses.¹² In particular, this Article uses these tools to discuss the following: (1) why LW has been termed a "pink-collar" field within the legal academy, (2) why women are overrepresented in it, and (3) why stigma is harmful to LW professors' health.¹³ This Article begins with overviewing the stigma and LW scholarship, then provides examples of stigma from my experiences, and, finally, describes strategies for addressing stigma. In so doing, this Article addresses a gap in the literature. Although previous scholarship has mentioned skill classes'—including LW's—stigmatization, no scholarship to date has applied a feminist sociological approach to this problem.¹⁴ The benefit of this interdisciplinary approach is that it unveils not only the gender equity but also health equity aspects of this social injustice in the legal academy.

11. See CHRISTOPHER N. POULOS, ESSENTIALS OF AUTOETHNOGRAPHY 4 (2021) (defining autoethnography as "an autobiographical genre of academic writing that draws on and analyzes or interprets the lived experience of the author and connects researcher insights to self-identity, cultural rules and resources, communication practices, traditions, premises, symbols, rules, shared meanings, emotions, values, and larger social, cultural, and political issues"); Stanchi & Levine, *supra* note 3, at 19.

12. See Patrick W. Corrigan et al., *Self-Stigma and the "Why Try" Effect: Impact on Life Goals and Evidence-Based Practices*, 8 WORLD PSYCHIATRY 75, 75–79 (2009) (explaining the "Why try" effect of internalizing stereotypes, which results in lower self-esteem and the reduced likelihood of pursuing life goals); Muhammad Arsyad Subu et al., *Types of Stigma Experienced by Patients with Mental Illness and Mental Health Nurses in Indonesia: A Qualitative Content Analysis*, 15 INT'L J. MENTAL HEALTH SYS. 1, 2 (2021) (defining public and self-stigma).

13. See Steinbuch, *supra* note 3, at 377.

14. See, e.g., McGinley, *supra* note 5, at 128 n.147–48 (mentioning a "stigma" associated with teaching LRW); Abigail Salisbury, *Skills Without Stigma: Using the Jurist Method to Teach Legal Research and Writing*, 59 J. LEGAL EDUC. 173, 186–87 (2009) (mentioning stigma associated with teaching skills classes).

I. STIGMA HARMS PEOPLE'S LIVES

Sociological literature demonstrates that stigma harms people's lives.¹⁵ Once devalued, people may face discrimination, loss of income, and a lack of access to resources.¹⁶ Stigma occurs through a simultaneous process in which (1) people distinguish from the rest of the population an individual's culturally salient characteristic (e.g., gender, sexual orientation, or skin color); (2) people associate the characteristic with a negative trait; (3) people separate themselves from the individual to whom they have assigned the unwanted characteristic based on an "us" versus "them" mentality; (4) the "labeled" individual undergoes a status decrease and discrimination; and, (5) society and the people within it exert power over the labeled individual.¹⁷ Additionally, the characteristics of a person that a society labels as unacceptable may change over time and are culturally specific because stigma is a social construction.¹⁸ For example, due to society's stigmatization of homosexuality, the American Psychological Association (APA) classified homosexuality as a mental illness in the Diagnostic and Statistical Manual (DSM) in 1952.¹⁹ However, in response to the gay rights movement and changing cultural attitudes, the APA removed homosexuality as a mental illness from the DSM in 1973.²⁰ While the APA's decision to remove homosexuality from the DSM did not mean that homosexuality suddenly became destigmatized, the decision did suggest that perhaps the degree of stigma against this label had decreased to some degree.²¹

For those within the legal academy seeking to reduce stigma against legal writing (LW) professors and professors with marginalized statuses, the APA's decision remains instructive in two ways. First, it suggests people within a cultural context can alter characteristics they perceive as unacceptable—in other words, stigmatized people may not be *stuck* with the

15. See, e.g., Pescosolido, *supra* note 1, at 9, 16 (discussing studies showing that mental conditions continue to be stigmatized, which results in a life expectancy that decreases by 15 to 20 years); Subu et al., *supra* note 12, at 2 (discussing how mental health stigmas deter individuals and their family members from seeking healthcare for them, and may cause their conditions to become worse).

16. See generally Jack K. Martin et al., *Of Fear and Loathing: The Role of 'Disturbing Behavior,' Labels, and Causal Attributions in Shaping Public Attitudes Toward People with Mental Illness*, 41 J. HEALTH & SOC. BEHAV. 208, 208–21 (2000) (describing the effects of discrimination regarding mental illness on mental health).

17. See Link & Phelan, *supra* note 2, at 367; see also Blake, *supra* note 2, at 196.

18. See Link & Phelan, *supra* note 2, at 368; see also Blake, *supra* note 2, at 196.

19. See Jack Drescher, *Out of DSM: Depathologizing Homosexuality*, 5 BEHAV. SCI. 565, 569 (2015).

20. *Id.* at 565, 570.

21. See *id.* at 570, 572.

undesirable label forever, at least not to the same degree.²² Second, stigma may be decreased through policy and legislative changes.²³ Partly as a result of the APA's decision to change its manual, the United States, as well as other countries, began to perceive homosexuality as a "normal" part of the human experience.²⁴ This attitudinal shift, in turn, led to further destigmatization of homosexuality through policy and legal changes that improved gay rights, including the repeal of anti-gay laws (e.g., sodomy laws), the ability to openly serve in the military, and the right to same-sex marriage.²⁵

Sociological scholarship also discusses various stigma types, including public stigma and self-stigma.²⁶ While public stigma explains why some are denied opportunities—i.e., the outward discrimination against a person—self-stigma explains why people never pursue them or only seek out opportunities that reinforce their stigmatized statuses.²⁷ Self-stigma, also called personal or internalized stigma, is an individual's negative perceptions of one's self due to some type of socially unacceptable status.²⁸ Such individuals may feel disempowered and hopeless as well as suffer a decrease in self-esteem and self-efficacy.²⁹ Consequently, many stigmatized people may use negative coping strategies including isolation, drug use, and hazardous drinking.³⁰ Additionally, workplace practices, laws, and policies may also perpetuate stigma through their institutionalization of stigma and thus further its entrenchment in society.³¹

As indicated above, for there to be stigma, there must be discrimination or mistreatment by others. For example, besides lesbian, gay, bisexual, transgender, and queer (LGBTQ+) individuals, people with certain health conditions (e.g., cancer or schizophrenia) may experience stigma that results in discrimination.³² Fundamental to discrimination is an unequal access to resources (e.g., money, knowledge, prestige, power, and beneficial social

22. *See id.* at 572.

23. *See id.*; Blake, *supra* note 2, at 218.

24. *See* Drescher, *supra* note 19 at 565, 572.

25. *See id.*

26. *See, e.g.,* Subu et al., *supra* note 12, at 2.

27. *See, e.g., id.*

28. *See id.*

29. *See id.* at 8.

30. *See generally, e.g.,* Jack K. Martin et al., *Problem Drinking Patterns Among African Americans: The Impacts of Reports of Discrimination, Perceptions of Prejudice, and "Risky" Coping Strategies*, 44 J. HEALTH & SOC. BEHAV. 408, 408–11, 415, 417–18 (2003) (using the National Survey of Black Workers (n = 2,638) study to suggest an increase in perceived discrimination was associated with increased levels of problem drinking among African Americans).

31. *See* Subu et al., *supra* note 12, at 2.

32. *See* Subu et al., *supra* note 12, at 9.

connections) tied to health outcomes.³³ Every group facing stigma, discrimination, and denial of resources has worse health outcomes than those who discriminate.³⁴ Part II places this sociological literature in conversation with the stigma faced by those who teach LW in American law schools.

II. THE INTERSECTION OF STIGMA AND LEGAL WRITING

The stigma lens sheds light on how the American Bar Association (ABA) and law schools have stigmatized legal writing (LW) for nearly half a century by siloing women into these low-paying, low-status, and less secure teaching positions within the legal academy. Indeed, both institutions began to stigmatize LW as women's work shortly after LW classes in ABA-accredited law schools proliferated in the 1980s.³⁵ By 1988, one scholar, Richard H. Chused, noted that LW was well on its way to "becoming a 'woman's job'" based on his 1986–87 survey of 149 law schools and 218 LW professors, which showed that 149—or 68.4%—of LW professors were women.³⁶ More than 30 years later, these percentages are largely the same—and seem to have even increased.³⁷ For example, the Association of Legal Writing Directors and Legal Writing Institute's (ALWD/LWI) 2020–2021 Survey showed that 76.6% of LW faculty identified as women.³⁸

Not only is LW itself stigmatized through its association with women, but so too are those women faculty who teach it.³⁹ Whether LW positions are low status because women teach them, or women are encouraged to pursue

33. See generally Bruce G. Link & Jo Phelan, *Social Conditions as Fundamental Causes of Disease*, 1995 J. HEALTH & SOC. BEHAV. 80, 80–81, 87–88 (noting that observed variables contributing to discrimination include money, power, knowledge, and social connections).

34. See Jane D. McLeod, *Social Stratification and Inequality*, in HANDBOOK OF THE SOCIOLOGY OF MENTAL HEALTH 229, 229, 232–37, 239–43, 245 (Carol S. Aneshensel et al. eds., 2d ed. 2013); Leonard I. Pearlin, *The Sociological Study of Stress*, 30 J. HEALTH & SOC. BEHAV. 241, 242, 249, 253–54 (1989); Leonard I. Pearlin et al., *The Stress Process*, 22 J. HEALTH & SOC. BEHAV. 337, 342–44, 346 (1981).

35. See Richard H. Chused, *The Hiring and Retention of Minorities and Women on American Law School Faculties*, 137 U. PA. L. REV. 537, 548, 556–57 (1988) (showing the increase in contract status for LW faculty between the 1980–81 and 1986–87 academic years).

36. Chused, *supra* note 35, at 537, 548, 557.

37. Compare Chused, *supra* note 35, at 556–57 (showing that of the 149 law schools and 218 LW professors Chused surveyed from 1986 to 1987, 149—or 68.4%—of LW professors were women), with ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iii, 123–24 (showing that of the 182 law schools and 332 legal research and writing (LRW) professors who participated in the ALWD/LWI 2020–2021 Survey, 245 of the 320 professors—or 76.6%—identified as "female").

38. ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at 123.

39. See Smith, *supra* note 8, at 106; Bannai, *supra* note 8, at 275–76; Bartow, *supra* note 9, at 243, 264.

LW positions because they are low status, remains unclear.⁴⁰ Regardless, however, racialized gender stereotypes (e.g., for white women: submissive, nurturing, and incompetent; and for women of color: incompetent but also “angry” for Black women) and segregation in the legal academy remain as a result.⁴¹ This Part outlines examples of stigma in the LW context as well as its potential health-related impacts on LW faculty.

A. Stigmatizing LW Through ABA Standards and Law School Policies

Since at least the late 1980s, scholars have documented the gender-based discrimination—which sociologists call public stigma—that the ABA and law schools have lodged against LW and its women faculty.⁴² As discussed below, the ABA Standards and law schools’ policies regarding the hiring and retention of LW faculty illustrate this stigma vis-à-vis its feminization.⁴³ While law professors teaching the masculinized doctrinal courses, including contracts, torts, and property law, typically enjoy tenure-eligible positions, usually accompanied by higher pay, prestige, full faculty voting rights, and other benefits (e.g., research funding), those teaching the feminized LW courses often do not.⁴⁴ As feminist scholars have explained, this result should not be surprising considering the law and its institutions’ androcentric heritage.⁴⁵ In other words, because society’s ruling group—privileged white

40. See Christine Haight Farley, *Confronting Expectations: Women in the Legal Academy*, 8 YALE J.L. & FEMINISM 333, 353–55 (1996).

41. See *id.*; see generally Smith, *supra* note 8, at 106; Bannai, *supra* note 8, at 275–76; Bartow, *supra* note 9, at 265.

42. See, e.g., Corrigan et al., *supra* note 12, at 75 (explaining public stigma consists of discrimination, stereotypes, and prejudice); Subu et al., *supra* note 12, at 2 (explaining public stigma can manifest as discrimination). Regarding the LRW-related scholarship see, for example, Chused, *supra* note 35, at 537, 554, 556–57 (presenting trends in a survey of “law school faculty composition” for the 1980–81 and 1986–87 school years, and explaining that most LW positions are held by women and have lower pay and status than other teaching positions); Jan M. Levine, *Voices in the Wilderness: Tenured and Tenure-Track Directors and Teachers in Legal Research and Writing Programs*, 45 J. LEGAL EDUC. 530, 531–32 (1995) (discussing LW professors’ “second-class status” in law schools); Stanchi & Levine, *supra* note 3, at 4–11 (discussing how LW faculty members, most of whom are women, are afforded the “lowest status” in the legal academy); Bannai, *supra* note 8, at 275–76 (discussing women LW faculty of color’s unequal treatment in the legal academy because they are women of color and teach a subject, LW, a low-status subject).

43. See ABA STANDARDS, *supra* note 6, Standard 405(d), at 31–32; ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iv; see generally, e.g., Weresh, *supra* note 6; Stanchi & Levine, *supra* note 3, at 5.

44. See Kathryn M. Stanchi, *Who Next, the Janitors? A Socio-Feminist Critique of the Status Hierarchy of Law Professors*, 73 UMKC L. REV. 467, 477–78 (2004).

45. See, e.g., Farley, *supra* note 40, at 351; see generally Wendy Brown, *Finding the Man in the State*, 18 FEMINIST STUD. 7, 7, 13, 18, 20, 26–27, 31 (1992) (discussing the male-dominated history around politics and institutional formation).

men—have historically created the law and its institutions, including the legal academy, these institutions tend to favor the “ruling group” and their lived experiences.⁴⁶ Therefore, society tends to assume these men’s competence to teach the so-called more mentally stimulating and more prestigious doctrinal courses, and so, they are overrepresented in doctrinal faculty positions and underrepresented in LW faculty positions.⁴⁷ Meanwhile, society presumes that women professors are less competent than men, with the degree of presumed incompetence heightened for younger women and women of color in comparison to white women.⁴⁸ As Pamela J. Smith states, “the closer one is to the ideal and expected professor, i.e., a middle[-]aged white male, the closer one is to the presumption of competence.”⁴⁹ As a result, women faculty become underrepresented in doctrinal faculty positions and overrepresented in LW faculty positions—positions comporting with gender stereotypes that women are comparatively more “nurturing” and “compassionate” than men.⁵⁰

The ABA Standards reinforce this gender segregation—and incentivize law schools to do the same—by providing differing levels of job security and faculty rights between LW and non-LW faculty.⁵¹ Full-time, non-clinical, non-LW faculty (i.e., doctrinal faculty) may achieve tenure and all the rights and responsibilities accompanying it, and full-time clinical faculty shall

46. See, e.g., Farley, *supra* note 40, at 351 (describing the law and law schools as “institutions . . . created by and for men” and thus “reflect[ive] [of] their experiences”); Stanchi, *supra* note 44, at 476–77 (describing the American law faculty hierarchy as a “patriarch[al]” “illegitimate status hierarch[y],” which results in women’s overrepresentation in the low-status LW positions and men’s overrepresentation in high-status doctrinal positions, and the stigmatization of LW as “uninteresting . . . ‘women’s work’” while doctrinal courses are deemed “highly intellectual” and thus “masculine”).

47. See, e.g., Farley, *supra* note 40, at 335–36 (discussing the problem of the “presumption of competence,” which women law faculty face, because they aspire to teach law which is considered “rational,” “objective,” and “masculin[e],” and how this gender stereotyping translates into a gender-based segregation of women law faculty into lower-status, feminized skills classes like LW); see also ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iii, 123–24 (showing that of the 182 law schools and 332 LRW professors who participated in the survey, only 72 of the 320 professors who responded to the “Gender Identity” query—or 22.5%—identified as “male”).

48. See Smith, *supra* note 8, at 96.

49. *Id.*

50. See Farley, *supra* note 40, at 335, 349; ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iii, 123–24 (showing that of the 182 law schools and 332 LRW professors who participated in the survey, only 245 of the 320 professors—or 76%—identified as “female”).

51. See, e.g., ABA STANDARDS, *supra* note 6, Standard 405(b)–(d), at 31 (requiring law schools to create a tenure policy for doctrinal faculty that also protects faculty’s “academic freedom,” to provide full-time clinical faculty with a level of job security “reasonably similar to tenure,” and to provide “legal writing teachers” a level of job security that is enough to “attract and retain” those who are “well qualified” and to “safeguard academic freedom”).

achieve a “security of [a] position reasonably similar to tenure.”⁵² However, LW faculty do not.⁵³ Instead, the word “tenure” does not appear in ABA Standard 405(d); rather, it states in part that law schools must provide “legal writing teachers” with job security and rights sufficient to “attract and retain a faculty that is well qualified to provide legal writing instruction” and “safeguard academic freedom.”⁵⁴ By using “teacher” instead of “faculty member,” this standard further demotes LW professors’ status by strengthening the association between LW and women’s work.⁵⁵ Since at least the 1850s in the United States, teaching, as an occupation, has been gendered as feminine.⁵⁶ Additionally, Standard 405’s Interpretation 405-9 further encourages law schools to limit LW faculty’s job security by interpreting Standard 405(d) to allow short-term writing contracts for LW faculty.⁵⁷ As a result, the ABA provides law schools with *carte blanche* authority to diminish these already low-status positions even more.

Perhaps even more alarming is the ABA’s likely awareness of such gender discrimination within the legal academy since at least 1996—the year the ABA first adopted the earliest version of Standard 405(d) and the first time the ABA recognized LW faculty “in the security of position standard.”⁵⁸ As discussed above, by the late 1980s and 1990s, LW had become a “woman’s job.”⁵⁹ But the ABA has done nothing to correct this gender disparity despite the LW community’s numerous calls for more than a quarter of a century to do so.⁶⁰ The only minor change to Standard 405(d) occurred in 2001, and it has not been amended since.⁶¹ As other scholars have noted, Standard 405(d) “fails to afford legal writing faculty the type of security of position enjoyed by those with tenure and, in so doing, instantiates a

52. *See id.* Standard 405(b)–(c), at 31.

53. *See id.* Standard 405(d), at 31.

54. *Id.*

55. *Id.*

56. *See* Elizabeth Boyle, *The Feminization of Teaching in America*, MIT PROGRAM IN WOMEN’S & GENDER STUD., <https://stuff.mit.edu/afs/athena.mit.edu/org/w/wgs/prize/eb04.html> (last visited Dec. 15, 2023); *see also* Edwards, *supra* note 3, at 78–79 (noting law schools’ LW professors, many of whom are women, are not considered “real” law professors and “teachers” instead).

57. *See* ABA STANDARDS, *supra* note 6, Standard 405(d) (Interpretation 405-9), at 32.

58. Weresh, *supra* note 6, at 127, 137–39 (discussing the ABA Commission on Women in the Profession’s 1995 report, which acknowledged a “gender disparity” in the legal academy due to the siloing of women in skills and LW professor positions).

59. *See* Chused, *supra* note 35, at 548.

60. *See generally* Stanchi & Levine, *supra* note 3, at 16–21 (describing the ALWD’s and LWT’s longstanding efforts to convince the ABA to improve LW faculty’s status by changing the ABA standards for legal education); *see* Chused, *supra* note 35, at 555 (concluding in 1988 that “[c]ommitments must be made by all American law schools to recruit, hire, and tenure women aggressively”).

61. *See* Weresh, *supra* note 6, at 141.

discriminatory hierarchy that is, after all of these years, simply astonishing.”⁶²

Because the ABA permits law schools to discriminate against LW faculty, that is what most law schools do. Indeed, the ALWD/LWI 2020–2021 Survey on law schools’ employment models demonstrate this entrenchment of stigma against LW professors.⁶³ Only 64—or 21.3%—of the 300 full-time LW professor-respondents indicated that their law schools provided uniform hiring, promotion, and tenure standards for full-time LW and full-time non-LW faculty alike.⁶⁴ Another 23 respondents—or 7.7%—categorized their appointment type as tenured or tenure-track with “Programmatic Tenure,” defined as “[t]enure that is achieved through a separate track/using different standards than traditional tenure awarded to doctrinal faculty.”⁶⁵ Thus, the majority of respondents—71%, or 213 professors—did not have programmatic tenured or tenure-eligible positions.⁶⁶ Instead, respondents stated they had longer-term contracts (often five years or so) with presumptive renewal under Standard 405(c)—(120 respondents or 40%) like clinical professors; short-term contracts (54 respondents or 18%); or long-term contracts without Standard 405(c) status (39 respondents or 13%).⁶⁷ In general, respondents received less job security, less pay, less likelihood for engagement in faculty governance, and less prestige.⁶⁸

How these schools are not in violation of Title VII of the Civil Rights Act of 1964 or the Equal Pay Act of 1963 by employing practices that have a disparate impact on women law professors exceeds this Article’s scope.⁶⁹

62. *Id.* at 156.

63. See ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at iv.

64. *Id.*

65. *Id.* at iv, viii.

66. *Id.* at iv.

67. *Id.*

68. See Amy H. Soled, *Legal Writing Professors, Salary Disparities, and the Impossibility of “Improved Status,”* 24 J. LEGAL WRITING INST. 45, 48–49 (2020) (explaining that, based on recent surveys of law schools and/or faculty, the median base salary for tenure-track, associate doctrinal faculty is \$168,840 while the base salary for tenure-track and non-tenure-track long-term and short-term LRW professors is \$95,664; \$72,350; and \$69,083 respectively); Bannai, *supra* note 8, at 287.

69. See 42 U.S.C. § 2000e-2(a)(2) stating:

It shall be an unlawful employment practice for an employer—

...

to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s . . . sex

Id.; see also 29 U.S.C. § 206(d)(1) stating:

But it would be worth exploring in another. All full-time faculty who teach in the law school have Juris Doctors (JDs) and teach valuable skills to law students.⁷⁰ Some LW professors, like me, even have advanced degrees. Yet we are paid less, work just as much—if not more—and are overlooked simply because we teach legal writing instead of contracts, torts, or another bar exam course and just so happen to mostly be women.⁷¹ One must ask: What message does this send to our students when they see that their very own law school treats its women faculty as second-class?

B. Stigmatizing LW by Calling It “The Pink Ghetto”

The public stigma against LW faculty is so entrenched that scholars have even problematically termed the LW field “the [p]ink [g]hetto.”⁷² In the legal academy context, “pink ghetto” means “the lower status, lower paid positions that women often occupy,” including LW, clinical, and law librarian positions.⁷³ While I agree that within the legal academy such positions have

No employer . . . shall discriminate . . . between employees on the basis of sex by paying wages to employees in such establishment at a rate less than the rate at which he pays wages to employees of the opposite sex in such establishment for equal work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions . . .

Id.; Ricci v. DeStefano, 557 U.S. 557, 577 (2009) (defining disparate impact, which 42 U.S.C. § 2000e-2(a)(2) prohibits, as “facially neutral practices that, in fact, are ‘discriminatory in operation’”) (citation omitted).

70. Charles Penrod & Lindsay Fryer, *What’s in A Name? The Use of the Title “Doctor” by JDs in Academia*, 27 BARRY L. REV. 141, 156 (2022) (suggesting most law faculty have a JD because it is a required degree for a law faculty position).

71. Edwards, *supra* note 3, at 86–87 (explaining that teaching LRW takes significantly more time than teaching doctrinal courses because of the constant need to create assignments, grade, and provide feedback on writing projects); McGinley, *supra* note 5, at 128–29 (discussing the uncompensated—yet expected—emotional labor that LRW professors provide to students on account of their smaller class sizes as well as the high office hour numbers (often two to three times higher than those of doctrinal professors) that they maintain).

72. See, e.g., Jo Anne Durako, *Second-Class Citizens in the Pink Ghetto: Gender Bias in Legal Writing*, 50 J. LEGAL EDUC. 562, 563 (2000) (describing LW as a “pink ghetto” teaching subject because of its and its professors’ inferior status in the legal academy); Susan Ayres, *Pink Ghetto*, 11 YALE J.L. & FEMINISM 1, 1 (1990) (containing a poem about a LW professor’s experiences of teaching in the “pink ghetto”—i.e. in the LW area—and the inferior treatment she received from doctrinal faculty members); Christopher, *supra* note 3, at 66–67 (using “pink ghetto” to describe women law faculty’s segregation into lower-status, feminized positions such as LW, clinician, and librarian positions); Larry Cunningham, *Dividing Law School Faculties into Academic Departments: A Potential Solution to the Gendered Doctrinal/Skills Hierarchy in Legal Education*, 67 VILL. L. REV. 679, 690 (2022) (using the phrase “pink ghetto” to describe how LW is treated within the legal academy).

73. Baker, *supra* note 3, at 1011. While this essay focuses on LRW faculty, I am also against discrimination against clinical faculty and law librarian faculty for the same reasons. As Black feminist scholar Audre Lorde states, “[t]here is no hierarchy of oppression.” Audre Lorde, *There Is No Hierarchy of Oppression*, in WOMEN’S VOICES, FEMINIST VISIONS 85–86 (6th ed. 2015). So too here, there are no

been de jure (thanks to the ABA Standards) and de facto (thanks to most law schools) classified as “pink collar,” I disagree that “ghetto” constitutes the appropriate term for this discrimination due to its racist undertones; additionally, I contend that it effectively contributes to the further stigmatization of LW and its faculty. This label likely derives from the fact that most LW faculty are not only women but apparently white ones, and so perhaps they may not have considered this connection because their white privilege may have initially affected their ability to do so.⁷⁴ Irrespectively, labeling the LW field as a “ghetto” associates it with an urban area where minority groups live due to discriminatory segregation practices; historically, this has meant segregated Jewish communities in early 20th-century America and segregated African-American communities in late 20th-century America.⁷⁵ Here, the underlying discriminatory assumption is that the lived experiences of low-status, but mostly white women law faculty is similar to the lived experiences of African-American communities living in impoverished city areas.⁷⁶ Additionally, using the term “pink collar ghetto” as a whole reinforces the field’s stigmatization because this label assumes the field’s devaluation based on its arbitrary association not only with women’s work, but also poor communities of color.

This assumption, of course, could not be further from reality. Despite the stigmatization of LW in the legal academy itself, LW faculty still constitute a relatively elite group within university and public settings. Not only do they have JDs, which provide more career opportunities and power, but they also still typically earn higher salaries in comparison to adjunct law faculty or sometimes even tenure-track full-time faculty in the social sciences or humanities.⁷⁷ For example, the average salary of full-time LW professors is \$106,641 (minimum salary: \$60,000; maximum salary: \$225,000) while the average salary of a full-time English professor is \$82,680 (with the

hierarchies of oppression among LRW faculty, clinical faculty, and law librarian faculty. All three provide law students with valuable writing, researching, and practicing skills and should be valued as much as doctrinal, tenure-track faculty.

74. See ALWD/LWI 2020–2021 SURVEY *supra* note 1, at 123–24.

75. See Camila Domonoske, *Segregated from Its History, How ‘Ghetto’ Lost Its Meaning*, NPR: CODE SW!TCH (Apr. 27, 2014), <https://www.npr.org/sections/codeswitch/2014/04/27/306829915/segregated-from-its-history-how-ghetto-lost-its-meaning>.

76. See Vanessa Barford, *Is the Word ‘Ghetto’ Racist?*, BBC NEWS (Jan. 15, 2016), <https://www.bbc.com/news/magazine-35296993> (discussing various meanings of “ghetto,” including how African Americans may use “ghetto” to describe lower-class African Americans who might live in government-subsidized housing).

77. See, e.g., ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at 137; *Occupational Employment and Wages, May 2021: 25-1123 English Language and Literature Teachers, Postsecondary*, U.S. BUREAU LAB. STATS., <https://www.bls.gov/oes/2021/May/oes251123.htm> (last updated Mar. 31, 2022) [hereinafter U.S. Bureau Labor Statistics].

bottom 10% earning \$39,230 or less, and the top 10% earning \$132,220 or more).⁷⁸ Although LW is feminized within law schools, LW, unlike English, is still a law course.⁷⁹ Thus, even LW professors, despite their low status in law schools, still earn higher pay than their English professor counterparts due to their stronger association with white, affluent masculinity.⁸⁰ Generally, the more the occupation is strongly associated with white, affluent masculinity, the more highly valued the occupation is, the higher the pay, and the higher the likelihood white men are overrepresented in the occupation.⁸¹ However, this intersectional critique of the “pink ghetto” terminology does not justify LW professors’ stigmatization, which may also affect professors’ health, as discussed below in Part III.

III. STIGMA’S POTENTIAL EFFECTS ON WOMEN LEGAL WRITING PROFESSORS’ HEALTH

As discussed in Part II, legal writing (LW)’s feminization creates the conditions for public stigma to thrive, and public stigma produces discrimination, which may impact LW’s professors’ health. Considering that lawyers, as a community, already tend to experience high levels of stress, which may lead to substance abuse and mental health issues, the stigmatizing of LW, dominated by women lawyers, is especially troublesome because of its potential added harmful effects on their mental and physical health.⁸² In terms of stigma’s health effects on women generally, women who have experienced gender discrimination experience higher rates of depression, are more likely to have substance abuse issues, and poorer mental and physical

78. ALWD/LWI 2020–2021 SURVEY, *supra* note 1, at 137; *Occupational Employment and Wages, May 2021: 25-1123 English Language and Literature Teachers, Postsecondary*, U.S. BUREAU LAB. STATS., <https://www.bls.gov/oes/2021/May/oes251123.htm> (last updated Mar. 31, 2022) [hereinafter U.S. Bureau Labor Statistics].

79. See Farley, *supra* note 40, at 335 (describing the law and law schools as “masculin[e],” thus indicating that law courses are also gendered masculine).

80. See Farley, *supra* note 40, at 350–51.

81. See, e.g., Stanchi, *supra* note 44, at 476–77 (discussing gender segregation within the legal academy, with women predominantly holding low-ranked LW positions and men predominantly holding high-ranked doctrinal positions).

82. See, e.g., Yair Listokin & Raymond Noonan, *Measuring Lawyer Well-Being Systematically: Evidence from the National Health Interview Survey*, 18 J. EMPIRICAL LEGAL STUD. 4, 18–19 (2021) (presenting study of U.S. lawyers (n = approximately 1,000 lawyers) showing that 11% of lawyers reported excessive alcoholic drinking, a percentage that more than doubles that of comparably educated professionals, including doctors and dentists); Patrick R. Krill et al., *Stressed, Lonely, and Overcommitted: Predictors of Lawyer Suicide Risk*, HEALTHCARE, Feb. 11, 2023, at 1, 8–9 (presenting study of California Lawyers Association and D.C. Bar members (n = 1,962) showing that 8.5% of these lawyers had experienced suicidal ideation, which is double the percentage of the general working population).

health.⁸³ Additionally, mothers are more likely to be denied occupation or hired at a lower income level—this is also known as the “[m]otherhood [p]enalty.”⁸⁴ And while women enjoy longer lives than men, they suffer from higher rates of morbidity and illness.⁸⁵

Because sexism also pervades academic institutions, the health and well-being of women professors, including women LW professors, likewise become harmed.⁸⁶ So, in addition to coping with the impacts of sexism outside the academy, women professors must also cope with its impacts inside of it. Women of color professors report that partly because of colleagues and students labeling them as “incompetent,” they have experienced numerous health conditions, including, “debilitating strokes, heart attacks, miscarriages, cancer, and psychological breakdowns.”⁸⁷ Their experiences align with previous research demonstrating the detrimental

83. See, e.g., Ro & Choi, *supra* note 10, at 211–12, 215 (presenting a study of women (n = 754) in California showing that gender discrimination and lifetime and recent hard drug use were significantly correlated); Harnois & Bastos, *supra* note 10, at 283, 297 (presenting a study of women and men (n = 3,724) showing that women’s (but not men’s) views on workplace sex discrimination and sexual harassment were associated with worse mental and physical health); Hosang & Bhui, *supra* note 10, at 682 (reviewing research on gender discrimination’s effects on women’s mental health and pointing out that “[w]omen can hold multiple forms of minority statuses (e.g. due to their ethnicity), meaning that they can be subject to discrimination from a myriad of angles, which together leads to greater stress and worse mental health outcomes”).

84. See, e.g., Shelley J. Correll et al., *Getting a Job: Is There a Motherhood Penalty?*, 112 AM. J. SOCIO. 1297, 1318–23, 1330, 1332–33 (2007) (presenting the results of a laboratory experiment and audit study where participants were asked to evaluate application materials of two similar applicants who only differed in parental status, and finding that employers penalized and discriminated against mothers); Wei-hsin Yu & Janet Chen-Lan Kuo, *The Motherhood Wage Penalty by Work Conditions: How Do Occupational Characteristics Hinder or Empower Mothers?*, 82 AM. SOCIO. REV. 744, 744–50, 756–57, 759–63 (2017) (presenting results from a study looking at whether the penalty of being a mother changes with the type of job and finding that there is less of a wage reduction for mothers when the job is more independent or subject to less competition).

85. See, e.g., Jen’nan Ghazal Read & Bridget K. Gorman, *Gender and Health Inequality*, 36 ANN. REV. SOCIO. 371, 373, 375, 383 (2010) (analyzing gender disparities in U.S. health over the past three decades, examining the research attention on gender in health disparities); Jen’nan Ghazal Read & Bridget K. Gorman, *Gender and Health Revisited*, in HANDBOOK OF THE SOCIOLOGY OF HEALTH, ILLNESS, AND HEALING: A BLUEPRINT FOR THE 21ST CENTURY 411 (Bernice A. Pescosolido et al. eds., 2011) (explaining gender-based health disparities between men and women, including that women generally outlive men, but are more prone to experiencing poor health; researching the extent, variations, and underlying factors of these disparities).

86. See, e.g., González & Harris, *supra* note 10, at 185–86 (describing how women of color professors’ unequal treatment in the legal academy caused them to experience various physical and psychological illnesses); Co, *supra* note 7, at 270–71 (describing how the legal academy’s systemic racism and sexism negatively impacts law professors of color’s health); Maureen J. Arrigo, *Hierarchy Maintained: Status and Gender Issues in Legal Writing Programs*, 70 TEMP. L. REV. 117, 172–79 (1997) (describing how the devaluing of LW results and the inferior treatment of LW professors, who have a higher workload but earn less pay than many of their doctrinal counterparts, and how the psychological and physical demands of teaching LW can negatively impact LW professors’ well-being and self-esteem).

87. González & Harris, *supra* note 10, at 185.

effects of gender- and race-related discrimination on women of color's health.⁸⁸

Meanwhile, women professors teaching LW, especially those who are women of color, may endure harm to their mental health and self-esteem due to their experiences of being “demeaned and excluded” in the legal academy.⁸⁹ Maureen J. Arrigo states that numerous LW professors “wholeheartedly . . . enjoy teaching [legal research and writing] and have absolutely no desire to teach anything else” for many reasons, including the joy of seeing their students grow as legal researchers and writers; however, the devaluation of LW may negatively impact their self-perceptions.⁹⁰ Arrigo explains:

When faced with attitudes of academic colleagues indicating that one is dedicating oneself to a dull, inferior field, it would be easy for one to internalize the message that perhaps the field *is* somewhat less intellectually rigorous than other areas of legal specialization and, since it appeals to her, she must somehow be similarly inferior and not cut out for these other positions that the “academic experts” have deemed more intellectually stimulating.⁹¹

In sociological terms, at work here is the intersection of public and personal stigma. After enduring fellow professors' negative remarks that LW is an “inferior” field, LW professors may themselves start to similarly feel inferior.⁹² Additionally, to cope with these feelings of inferiority and with being perceived as inferior by others in the legal academy, a LW professor may try to *make up* for her so-called *incompetence* through overcompensation.⁹³ This overcompensation may also have a negative impact on her health as she strives to work twice as hard for less prestige and

88. See, e.g., Juanita J. Chinn et al., *Health Equity Among Black Women in the United States*, 30 J. WOMEN'S HEALTH 212, 212–16 (2021) (analyzing descriptive statistics showing that Black women disproportionately experience chronic illnesses, including cardiovascular disease (CVC), obesity, and anemia, and disproportionately die during pregnancy due to the intersection of race and gender discrimination); Karen Paz & Kelly P. Massey, *Health Disparity Among Latina Women: Comparison with Non-Latina Women*, 9 CLINICAL MED. INSIGHTS: WOMEN'S HEALTH 71, 71–73 (2016) (reviewing studies regarding health disparities among Latina women and indicating that Latinas disproportionately experience cardiovascular-health inequities due to income, education, and language-related barriers).

89. Bannai, *supra* note 8, at 289; Arrigo, *supra* note 86, at 173–76.

90. Arrigo, *supra* note 86, at 173–76.

91. *Id.* at 175.

92. *Id.* at 175–76.

93. See *id.*

pay.⁹⁴ A meta-analysis of 26 qualitative studies on academics' mental health in higher education found that overworking was consistent across disciplines and countries; this led to stress-related physical and mental illnesses and had adverse effects on well-being.⁹⁵

Perhaps exacerbating these health effects of stigma on LW faculty is that they are expected to shoulder a disproportionate amount of emotional labor in comparison to doctrinal faculty because their field has been associated with femininity.⁹⁶ Ann C. McGinley explains that like the occupations of an administrative assistant and a paralegal, the occupation of LW is associated with femininity.⁹⁷ As a result, a LW professor, like women faculty generally, “perform[s] a high degree of emotional labor” for her students, is “expected to act as [a] mini-psychologist[] and emotional soother[] for [her] troubled students,” and “must suppress her own emotions even when the student acts in an insulting manner toward” her.⁹⁸ Like a mother with a crying infant, she “is eternally interruptible,” too, because as a LW faculty member, she is expected to always be available to her students.⁹⁹

Law schools—and I would argue the legal profession generally—benefit from LW faculty’s uncompensated counseling services in multiple ways.¹⁰⁰ To provide just two examples, not only does this labor serve an important “public relations function” because students who receive such care develop

94. See, e.g., Deanna Vellucci, *One Step Closer, Yet Still So Far—Narrowing the Wage Gap*, JDSUPRA (Jan. 5, 2021), <https://www.jdsupra.com/legalnews/one-step-closer-yet-still-so-far-2234049> (discussing her “fear of having to work twice as hard for potentially less compensation” upon entering the profession as a woman associate attorney); Dabney P. Evans et al., *You Have to Be Twice as Good and Work Twice as Hard: A Mixed-Methods Study of Perceptions of Sexual Harassment, Assault and Women’s Leadership Among Female Faculty at a Research University in the USA*, 4 GLOB. HEALTH, EPIDEMIOLOGY & GENOMICS, Sept. 5 2019, at 1, 3, 5–6 (discussing qualitative interviews (n = 14) of women faculty at a U.S. university, one of whom felt that women working in the sciences “have to be twice as good and work twice as hard” due to the university’s sexist culture); see generally Shannon N. Morgan, *Working Twice as Hard for Less Than Half as Much: Sociolegal Critique of the Gendered Justifications Perpetuating Unequal Pay in Sports*, 45 COLUM. J. L. & ARTS 121, 121 (2021) (discussing how women athletes also cope with a sexist culture in which they have to work twice as hard for less pay); Mariela Dabbah, *Cultivate Your Patience: The Fight for Equality Has Just Begun*, FORBES (July 25, 2018), <https://www.forbes.com/sites/forbescoachescouncil/2018/07/25/guys-cultivate-your-patience-the-work-has-just-begun/?sh=4c283338410c> (stating women have to work “twice as hard for similar recognition” to that of their male counterparts despite the inroads women have made into “men’s jobs”).

95. See Helen Nicholls et al., *The Impact of Working in Academia on Researchers’ Mental Health and Well-Being: A Systematic Review and Qualitative Meta-Synthesis*, 17 PLOS ONE, May 25, 2022, at 1, 1–25.

96. McGinley, *supra* note 5, at 128–29.

97. *Id.* at 128.

98. *Id.* at 128–30.

99. *Id.* at 130–31.

100. *Id.* at 130.

fond and long-lasting law school memories, but also it lessens this burden on tenured and tenure-track faculty members, the Dean of Students, and students' legal employers while in law school.¹⁰¹ And LW itself is designed to encourage this mother-child dynamic.¹⁰² LW classes tend to have smaller class sizes than doctrinal classes and require high office hour numbers—often 2–3 times higher than those of doctrinal professors.¹⁰³ However, expending this emotional labor may take its toll on LW professors' health.¹⁰⁴ Emotional labor has been associated with various negative health consequences including exhaustion, burnout, depression, hypertension, heart disease, memory loss, and workplace violence (due to increased likelihood of being exposed to “clients”—or, in this case, students—while working).¹⁰⁵

I have experienced personal stigma as a LW professor at a private Hispanic-serving law school in South Texas. This year was my first time teaching LW, and I thoroughly love my job. Prior to this work, for four years, I served as an associate attorney at two different private law firms specializing in general civil litigation. While I—and my LW students—appreciate my practice experiences, I have thoroughly enjoyed my career transition into the legal academy. I enjoy not only working with my incredibly supportive and collaborative fellow LW colleagues and law school community but also the students whose writing I have been privileged enough to see improve throughout the academic year. The flexible work schedule has also been a tremendous plus because it allows me to take care of my work and caretaking duties. However, LW's stigmatization, although unsurprising due to its association with women's work, is harmful. Yet LW's devaluation is all too familiar to me as someone who both teaches LW and has taught, as well as holds a Doctor of Philosophy (PhD) in, Gender Studies (also called Women's Studies). Like LW, Gender Studies continues to be delegitimized through its feminization.¹⁰⁶ On numerous occasions, I have encountered lawyers and academics, all economically privileged white men, who told me that my doctoral degree “does not count” because it does not come from the “hard” or social sciences (e.g., chemistry, biology, political science, etc.).

101. *Id.*

102. *Id.* at 128–31.

103. *Id.* at 128–29.

104. See, e.g., Da-Yee Jeung et al., *Emotional Labor and Burnout: A Review of the Literature*, 59 YONSEI MED. J. 187, 187–91 (2018).

105. *Id.* at 188.

106. See generally *Reports: Valuing and Devaluing Women's Studies*, 75 ACADEME 35 (1989) (describing women's studies' inferior status in academia because of its association with women and women's issues) [hereinafter *Devaluing Women's Studies*].

I pulled the excerpts below from my teaching reflective journal, which I wrote during my first year as a LW professor. Through the sharing of my experiences, I hope that the American Bar Association and law schools will realize how stigma impacts LW professors and consider changing their policies so that LW professors are afforded the same rights as tenure-track law school faculty. As Jerome McCristal Culp, Jr. explains, the use of “personal experiences” can not only help cultivate our “awareness of differences in the world, and the role of experience in law” but also “would liberate many of [our] students.”¹⁰⁷

IV. MY EXPERIENCES WITH STIGMA

My social identities intersect, shape, and frame my experiences of stigma in and outside the legal academy.¹⁰⁸ In addition to being a full-time legal writing (LW) assistant service professor in law, a non-tenure track, contract-based position at my law school, I am in my late thirties. I also identify as a white, middle-class, able-bodied, and married bisexual woman living with adult Attention Deficient Hyperactivity Disorder (ADHD), Generalized Anxiety Disorder (GAD), and a history of eating disorders (EDs). The first excerpt below from my teaching journal demonstrates my experiences of personal and public stigma on my first day of teaching LW. Specifically, I refer to the stigmas associated with being a young-looking white woman who teaches LW in the legal academy, which as explained above in Part II.A and excepting my field, largely remains a white-male dominated institution.

August 20, 2022

In the three slow minutes before I taught my first ever LW class, my gaze flittered back and forth between my PowerPoint slides and the clock at the back of the classroom. Today’s topic—Texas’s Disciplinary Rules of Professional Conduct for attorneys, including Rule 1.01—an attorney’s duty to ensure the attorney is competent to legally represent a client in a legal matter.¹⁰⁹ Although I had read and reviewed the rules and the materials multiple times last night and this morning, I kept thinking, “Was this real? Could I

107. Culp, Jr., *supra* note 8, at 559.

108. See Crenshaw, *supra* note 8, at 140, 149; MAY, *supra* note 8, at 23–24; HILL-COLLINS & BILGE, *supra* note 8, at 2–4.

109. TEX. DISCIPLINARY RULES PRO. CONDUCT r. 1.01(a) (2022).

get through my slides and inspire discussion? What if my students did not talk?” I wondered, “Were my suit jacket and dress appropriate? Would students respect me?”

While standing at the podium in front of twenty first-year students (1Ls)—many Latina/o/x but also white, Black, Indian-American, and other racial and/or ethnic backgrounds[—]I eked out a close-lipped, pleasant smile. I felt like an ant in the auditorium-style classroom with a seating capacity of a hundred. I recalled the twenty-something 1L at 1L-orientation who said she wanted to attend law school because there were no women lawyers in her family. Instead, women served in more traditional roles. Although I wasn’t the first lawyer in my family, I was the first woman in my family to become a lawyer. I also thought about my mother who was born in 1949 in southern West Virginia; she was one of six children. “Money was tight then,” she had said. Although she had wanted to attend medical school, she didn’t because “women did not do that back then.”

With a JD, PhD, and four years of practice experience, I had hoped my students would respect and accept me. But, still, I had my doubts. Here I was, a white, young-looking, middle-class, feminine woman from southern West Virginia teaching at a law school in San Antonio, Texas. Someone from the previous class had already mistaken me as a teaching assistant.¹¹⁰

Above, the stigmas manifested in various ways. I exhibited personal stigma vis-à-vis my own questioning of my competence to teach law based on my gender (woman) and age (37)—the more salient identities that contributed to this negative self-perception. For example, I questioned my own legitimacy to teach the course based on my feminine dress (“Were my suit jacket and dress appropriate?”). Additionally, and despite my credentials, I expressed concern over whether students would “respect” and “accept” me. In other words, and as Alireza Nourani-Dargiri explains, because I am not a middle-aged “white gentleman,” the presumed “expert,” the public sometimes not only perceives me as unworthy of “belonging” in the legal academy and profession, but also I sometimes perceive myself this way

110. Teaching Journal of Amanda Stephens, Assistant Service Professor in Law, St. Mary’s University School of Law (2022) (on file with author) [hereinafter Teaching Journal].

because I have internalized this racist, misogynistic, and ageist mentality.¹¹¹ The irony of this passage, too, is that I doubted my competence while teaching that a lawyer's professional responsibility is to only accept legal representation for legal matters they are competent to handle!¹¹²

Intellectually, I know I am competent to teach law because I have the credentials in terms of education and practice experience. But the degree of stigma I experience makes me feel as if I do not—hence, my statement that “I felt like an ant” in the classroom and concern that I would fail to stimulate meaningful class discussion. These statements illustrate my feelings of insecurity. Yet, because of my race (white) and class (middle class), of course, I enter the classroom with certain advantages.¹¹³ And there is no doubt that being a white, middle-class, feminine, woman-identifying, physically abled-bodied, American, and English-speaking attorney helped me achieve my goal of being hired for this LW professor position. In fact, as discussed in the Introduction and based on the available demographic statistics of LW professors,¹¹⁴ I am the stereotypical LW professor in many ways. Even so, I, as well as the legal academic community, may doubt my capability to teach within the academy because I am a woman in my late thirties. Indeed, the excerpt also shows that someone mistook me as a teaching assistant, again at least in part because I am not a distinguished-looking white man standing at the front of the classroom.

Now, intersect this with my ADHD, GAD, and EDs, and it becomes clear that I traverse a milieu of overlapping stigmas—without even considering the stigma specifically associated with LW. For example, women with ADHD like me, which is to say women who are not diagnosed with ADHD until adulthood, are at a greater risk of experiencing anxiety, EDs, and substance use issues.¹¹⁵ Also, due to repetitive experiences of unexplained failures, such women are more likely to endure low self-esteem.¹¹⁶ I was not diagnosed with ADHD, which still carries a strong

111. See Alireza Nourani-Dargiri, *Words We Manifest: How to Amplify Diverse Voices Through Course Materials in Lawyering Skills Courses*, 27 J. LEGAL WRITING INST. 273, 276, 282–83 (2023) (discussing how, in contrast to the “white gentleman,” women and people of color tend to experience “a low sense of belonging” in the law school and in the profession, which adversely affects their successes during and beyond law school).

112. See TEX. DISCIPLINARY RULES PRO. CONDUCT r. 1.01(a) (2022).

113. Phoebe S. Lin & Lynne N. Kennette, *Creating an Inclusive Community for BIPOC Faculty: Women of Color in Academia*, 2 SN SOC. SCI. 245, 245 (2022) (describing white professors' superior treatment regarding their teaching, service, and research opportunities and responsibilities in comparison to their professors of color counterparts).

114. ALWD/LWI 2020–2021 SURVEY, *supra* note 1, 123–24.

115. Mira Elise Glaser Holthe & Eva Langvik, *The Strives, Struggles, and Successes of Women Diagnosed with ADHD as Adults*, 7 SAGE OPEN 1, 3 (2017).

116. See *id.* at 2–3.

stigma itself, until my late thirties, and I have all these comorbid illnesses, except substance use problems.¹¹⁷ So my self-doubts stemming from my gender and LW professor status become amplified by my ADHD, GAD, and EDs. As my therapist has helped me understand, I achieved my JD, PhD, and two bar admissions despite these conditions. For example, writing this Article, which might take a non-ADHD, similarly situated white woman two months to research and write, has taken me more than four months—or maybe twice as long—because I am easily distracted and anxious about writing and teaching law due to my fear of failure.

Equally salient in the above example is my overcompensation—this, too, results from the stigma, which has taught me to undervalue my worth.¹¹⁸ I feel the need to overprepare and overwork myself to *feel* just as competent as my male counterparts. Here, this overcompensation is seen through my review and re-review of my slides to ensure I was ready for my lesson that day. This coping strategy, as mentioned above, could lead to me experiencing burnout, additional stress, and other poor health outcomes.

Here is how overcompensation tends to affect me: Because of the extra time and energy spent overpreparing, I did not move on to completing my other work tasks until the weekend, which means that I worked more than necessary in a position with an already heavy workload because it is a writing class. As mentioned above, LW's association with women's work means that it requires a substantial amount of student meetings, care, and grading—although it pays less than a doctrinal professor's position.¹¹⁹ So I worked more on class preparation for a course that already carries a high degree of work. Critically, I did not have the chance to work on scholarship, house chores, or self-care—tasks that might help improve my personal life and my status in the legal academy. Imagine, also, that thoughts bolt through my head on a frequent basis like a racquetball because I have ADHD. Consider, also, that I have caretaking responsibilities because I have a husband, a cat, and a dog. This means that I also had these duties to address but struggled with doing so because of these issues. Imagine, too, if I had children or an ill parent for whom I bore further caretaking responsibility. Imagine what this situation might be like, too, for women LW professors or LW professors of color who have caretaking duties for their children, elderly parents, or both.

Overcompensation has been an ongoing trend throughout my legal career because of the intersection of law and its institution's white

117. *See id.*

118. *See* Vellucci, *supra* note 94; Evans et al., *supra* note 94, at 1–8.

119. McGinley, *supra* note 5, at 128–30.

heteropatriarchal roots and my social identities.¹²⁰ Memories of working as a 1L enter my mind. I recall, for example, clerking at a law office in rural Indiana. (I had gone to law school in Bloomington, Indiana.) I had remarked to one of my peers, a kind, 1L white guy, that I was worried about writing a motion for our supervising attorney. “Just write the motion,” he said. He meant well. But he did not understand the swirling amount of anxiety going through my head as I worried that I would make a mistake, be laughed at, or get in trouble for not writing a good piece of legal writing. Even now, when an authority figure—whether my mother or an employer—wants to speak with me privately about something, I immediately question my behavior and think I must have done something wrong. “Why do you always think you’ve done something wrong?” my mom would ask me during my teenage years and even now in my late thirties. I always think I have done something wrong because I grew up in a culture that tells me that being a woman means my existence is always already wrong. I did not have the advantage of just assuming I could do something right unlike my 1L white male peer. Instead, I tend to assume I do things wrong and then am amazed if I excel at something professionally—or personally.

Another instance of internalized stigma can be seen in my experience writing my faculty profile. Under the “specialties and courses” section of my profile, I only included my LW course. What was noticeably absent from that profile are my specialties of Gender Studies and Gender and Law, even though I have my PhD in these areas. I remark about this phenomenon as follows:

September 30, 2022

Personal stigma, Imposter Syndrome, whatever you want to call it—this looks like me NOT listing Gender Studies or Gender and Law as my specialty on my St. Mary’s Law faculty bio. It did not even occur to me, and I have my PhD in these areas.¹²¹

It is one layer of hurt, for me, as a woman lawyer and faculty member, to read scholarship about how women stigmatize themselves and underestimate their worth. It is another to see how I underestimate myself and to consider how I may have steered myself into a field dominated by women and that is, uncoincidentally, lower paying than other law-faculty

120. See Vellucci, *supra* note 94; Evans et al., *supra* note 94, at 1–8; Farley, *supra* note 40, at 353–55.

121. Teaching Journal, *supra* note 110.

positions, as discussed in the Introduction. I may have even been drawn to teaching LW because I was looking for a workplace to exercise my compassion and empathy skills more often. And to be honest, I love listening to students' life stories and helping guide them through not only their legal writing but also law school and legal careers (although this counseling role does take its toll on me emotionally at times and is tremendously undervalued). Furthermore, as the one experiencing this self-stigma, it is scary to think about all the self-stigma examples that have remained unidentified or perhaps have not even happened yet in my life. Here, including Gender Studies or Gender and the Law as my specialties did not even enter my consciousness. That I, as a white woman with a PhD in Gender Studies and lawyer, i.e., someone with a great deal of privilege and who studies social inequality for a living, experience internalized stigma shows how embedded stigma is in the American legal profession and society generally.

Additionally, in the hierarchy of higher education and law courses, LW—despite being feminized and thus devalued in the legal academy—still has more value than Gender Studies or Gender and Law.¹²² These latter fields are even more feminized and considered less valuable. Unlike LW, these courses are not usually required for law students.¹²³ Instead, and although some schools are now requiring students to take Race and Law and similar courses to combat discrimination, courses like Gender and Law, Race and Law, and so on are typically optional upper-level courses.¹²⁴ This sends the message that these courses—and, by implication, sexism and racism—are not important enough topics to teach our future generations of lawyers even though the American Bar Association (ABA) now requires law schools to provide an anti-bias, culturally competent, and anti-racist education.¹²⁵ Through my omission on my faculty biography, I showed that I have internalized the patriarchal belief that sexism and gender equality—and their intersection with the law—do not matter as much as the more *important* (read: masculine) topic of LW.

122. See Farley, *supra* note 40, at 353–55; *Devaluing Women's Studies*, *supra* note 106, at 35.

123. See ABA STANDARDS, *supra* note 6, Standard 303(a), at 18 (showing courses like Gender Studies and Gender and Law are not required courses for ABA-accredited law schools based on the fact that they are not mentioned at all).

124. See Staci Zaretsky, *Top Law School Will Make Race-Related Coursework Mandatory for Graduation*, ABOVE THE LAW (Apr. 9, 2021), <https://abovethelaw.com/2021/04/top-law-school-will-make-race-related-coursework-mandatory-for-graduation> (stating two University of California law schools now require law students to take a Race and the Law course—or a similar course—to graduate).

125. See ABA STANDARDS, *supra* note 6, Standard 303(c), at 18; see also Nourani-Dargiri, *supra* note 111, at 281.

However, thanks to my continued engagement with my students and law school community, my law teaching journey has since improved—not that it was ever *bad*. As discussed in Part III, I work in an amazing profession with good people. Thanks to them, I trust myself more—and students trust me more—to teach LW. Additionally, my law school has begun to destigmatize LW professors by providing longer-term, renewable contracts that label LW professors as “Service Professor[s] in Law” rather than as “Instructor[s],” a less prestigious label.¹²⁶ I celebrate “small wins” like this whenever possible and remain cautiously optimistic that LW professors’ status will continue to improve nationwide despite the law’s patriarchal heritage. Part V discusses social contact as a strategy for destigmatizing LW and improving LW faculty’s status.

V. ADDRESSING STIGMA AGAINST LEGAL WRITING PROFESSORS THROUGH SOCIAL CONTACT

The sociological literature establishes that there is only one evidence-based method for ameliorating stigma: social contact.¹²⁷ How this works: If you are close with someone who has a stigma, you are more likely to be friends, coworkers, or even welcome that person into your family.¹²⁸ This is why having a direct, open, and honest conversation is so beneficial—it both educates and connects people.¹²⁹ For example, to build direct contacts, some anti-stigma organizations have taken the lead to develop interactive educational campaigns.¹³⁰ One such organization, Bring Change to Mind, a

126. *Amanda Stephens: Biography*, ST. MARY’S UNIV. SCH. OF L., <https://law.stmarytx.edu/academics/faculty/amanda-stephens> (last visited Dec. 15, 2023) (describing my former title as “Law Success Instructor” and my current title as “Assistant Service Professor in Law”).

127. *See, e.g.*, Georg Schomerus et al., *Do Attitudes Towards Persons with Mental Illness Worsen During the Course of Life? An Age-Period-Cohort Analysis*, 132 *ACTA PSYCHIATRICA SCANDINAVICA* 357, 357–63 (2015); Graham Thornicroft et al., *Evidence for Effective Interventions to Reduce Mental-Health-Related Stigma and Discrimination*, 387 *LANCET* 1123, 1125, 1127 (2016).

128. *See* Schomerus et al., *supra* note 127, at 357–63; Thornicroft et al., *supra* note 127, at 1125, 1127.

129. *See* Schomerus et al., *supra* note 127, at 357–63; Thornicroft et al., *supra* note 127, at 1125, 1127.

130. *See, e.g.*, *Talk Tool*, BRING CHANGE TO MIND: LET’S TALK MENTAL HEALTH, <https://bringchange2mind.org/talk/talk-tool> (last visited Dec. 15, 2023) (providing ways for those living with mental-health conditions to discuss their conditions with “people in their life”); *StigmaFree Pledge PSA*, NAT’L ALL. ON MENTAL ILLNESS, <https://www.nami.org/Press-Media/NAMI-PSAs/StigmaFree-Pledge-PSA> (last visited Dec. 15, 2023) (featuring various public service announcements by well-known actors, including Mayim Bialik, who take the pledge to be “stigma free” against mental-health conditions and encourage viewers to do the same); Bernice A. Pescosolido et al., *Empowering the Next Generation to End Stigma by Starting the Conversation: Bring Change to Mind and the College Toolbox Project*, 59 *J. AM. ACAD. CHILD & ADOLESCENT PSYCHIATRY* 519, 519–30 (2020).

nonprofit seeking to eliminate mental-health-related stigmas, embraces the efficacy of social contact through interactive educational interventions, including the Talk Tool on its website.¹³¹ Through the Talk Tool, individuals with certain mental-health conditions, including anxiety, Attention Deficient Hyperactivity Disorder (ADHD), and eating disorders (EDs), can glean strategies for telling others in their life about their condition to help expel the stigmas associated with it.¹³² By talking and listening—the key to these campaigns—those who are stigmatized experience a less threatening world, and those who stigmatize have deeply held stereotypes expelled.¹³³

However, these interactive tactics are not “panaceas” because those living with a mental illness may not feel as if starting a conversation about their mental illness is an option precisely due to the stigma associated with it.¹³⁴ Additionally, these strategies tend to place the burden of eliminating the stigma on the person experiencing the stigma—i.e., the person with less power in conversations about mental health—rather than on the person who does not experience stigma and may even be imposing the stigma.¹³⁵ Nevertheless, social contact still may be somewhat effective in reducing stigma.¹³⁶ A 2019 survey study of adults (n = 1,954) with mental-health symptoms in California found that participants’ exposure to California’s anti-stigma campaign was associated with an increase in using treatment.¹³⁷ Similarly, an online experiment of college students (n = 726) in the United States, in which researchers exposed students to anti-stigma messages, showed, *inter alia*, that the competence-related message (i.e., people with mental illness are competent) decreased the public stigma of schizophrenia.¹³⁸

131. *See Talk Tool*, *supra* note 130.

132. *Id.*

133. *See* SEAN M. VIÑA, HEALTH AND INEQUALITY IN STANDUP COMEDY: STORIES THAT CHALLENGE STIGMA 11 (2023) (discussing, in the context of standup comedy, how comedy may be able to reduce mental health stigmas because it allows performers to discuss and spread awareness about controversial issues such as mental health).

134. *See id.* at 4.

135. *See id.*

136. *See, e.g.*, Rebecca L. Collins et al., *Social Marketing of Mental Health Treatment: California’s Mental Illness Stigma Reduction Campaign*, 109 AM. J. PUB. HEALTH S228, S228–S235 (2019) (showing social contact between the mentally ill and the general population can reduce the stigma associated with mental illness); Amy Kroska & Sarah K. Harkness, *Information vs. Inspiration: Evaluating the Effectiveness of Mental Illness Stigma-Reduction Messages*, 96 SOC. SCI. RSCH. 1, 1–13 (2021) (showing anti-stigma messages may reduce discrimination and stigmatization against the mentally ill).

137. *See* Collins et al., *supra* note 136, at S228.

138. *See* Kroska & Harkness, *supra* note 136, at 7, 10.

But the next question is: How does this social contact strategy apply in the legal writing (LW) context? How may it be used to lessen the stigma against LW professors in law schools? One way is through interactions between LW faculty and students in the classroom. My teaching reflections suggest that I gradually perceived a decrease in personal and public stigma associated with being a woman who teaches LW. In other words, through constant exposure to my students in the classroom over the course of two semesters (because students retain the same LW professor for their first year at my law school), I began to expel the sexist beliefs that I was incompetent to teach law because I am a woman and that LW is less valuable than doctrinal course topics. Most critically, I began to trust in my ability to teach law, and students began to trust in my ability as well. For example, consider these three entries:

October 18, 2022

I . . . managed to get through two cases on due process in one class! Whew. I found that I could increase student participation by having students talk in small groups about the cases first

January 20, 2023

On Thursday, one of my students noted that I have started to sign my emails with “Dr.” now instead of “Prof.” I said that I had been working on my self-confidence. Then the whole class clapped for me—not in a paternalistic or mocking way but because they seemed happy about it.

March 30, 2023

One of my students has nicknamed me “Grammarly,” the name of the editing software that I recommend students to use, because of my grammar skills, and another has nicknamed me the “Citation Queen” for my legal citation skills.¹³⁹

139. Teaching Journal, *supra* note 110.

These notes demonstrate a dramatic shift from my first entry in August 2020 where I was concerned that students might not respect or accept me or participate in class. Instead, these excerpts show I developed strategies for increasing class participation through small-group discussions and boosting my self-confidence by calling myself “Dr.,” which my students also appreciated. Furthermore, my students, who would not have bestowed upon me these glorious nicknames on the first day of class, now have graciously done so after two semesters of being in my class. They trust me more because they know my teaching style and have received multiple rounds of feedback on their writing drafts.

Yet, as impactful as these interactions were for increasing my own self-confidence and status in the LW classroom among my students, they do not help LW professors like me increase our status among doctrinal professors and executive law school administrators. There are two reasons for this: (1) teaching in the LW classroom does not typically help LW faculty, doctrinal faculty, and law school administrators cultivate direct contacts among each other in order to destigmatize LW professors;¹⁴⁰ and, (2) even if LW professors developed these contacts through other avenues (e.g., at joint faculty meetings or social events), they would only go so far without a commitment to change the American Bar Association (ABA) Standards and law school policies to treat LW and non-LW faculty equally.¹⁴¹ And law and policy changes that equalize the statuses of LW and doctrinal faculty could also result in more social contact among doctrinal and LW faculty and law school administrators.¹⁴² For example, if LW professors have the same rights and benefits as doctrinal faculty, then both groups would interact at formerly doctrinal-faculty only meetings where faculty vote on hiring, promotion, and curriculum matters. Through such increased policy-imposed interactions, stigma against LW professors may be expelled.

Indeed, prior research shows that law and policies can be used to exacerbate stigma, but both can also be used to reduce it in multiple ways, including systemically by forbidding or remedying discriminating conduct

140. See Ayres, *supra* note 72, at 1 (suggesting that the segregation of LW faculty hinders social interactions among LW and doctrinal faculty).

141. See Blake, *supra* note 2, at 186 (suggesting that laws and policies can be used as tools to combat stigma).

142. See, e.g., C. Todd Lopez, *U.S. Military Integration Spawned Peerless Fighting Force*, U.S. DEP’T OF DEFENSE (July 26, 2023), <https://www.defense.gov/News/News-Stories/Article/Article/3471899/us-military-integration-spawned-peerless-fighting-force> (describing how the racial desegregation of the U.S. military in 1948, thanks to President Harry S. Truman’s Executive Order 9980, enabled people of color to increase their rank in the military and suggesting that it required interactions among white and people of color service members).

and interpersonally by “chang[ing] the way people see each other.”¹⁴³ For example, Valerie K. Blake describes Section 1557 of the Patient Protection and Affordable Care Act, “which prohibits discrimination on the basis of race, color, national origin, age, disability, or sex (including pregnancy, sexual orientation, gender identity, and sex characteristics), in covered health programs or activities,” as a potentially “powerful tool in the battle over healthcare stigma” against sexual minorities at the “structural level” because it is “the first health-specific civil right, and the first to reach sex discrimination in healthcare.”¹⁴⁴ Similarly, President Harry S. Truman’s July 26, 1948 Executive Order 9981, which ended racial and ethnic segregation in the U.S. military, helped reduce stigma against racial and ethnic minorities.¹⁴⁵ For example, most Black American service members, in comparison to their civilian counterparts who have never served in the military, experience higher incomes and rates of homeownership as well as better access to medical care.¹⁴⁶

The ABA and law schools, too, could lessen the public and personal stigma against LW professors by implementing policies that equalize the status of LW and non-LW, tenure-track law professors. Although 64—or 21.3%—of the 300 full-time LW professor-respondents indicated that their law schools provided uniform hiring, promotion, and tenure standards for fulltime LW and fulltime non-LW faculty alike, more law schools and the ABA should follow suit.¹⁴⁷ Although, ironically, the ABA originally implemented Standard 405(d) to provide better protections for LW faculty,¹⁴⁸ those very standards not only failed to accomplish this goal but also opened the door for law schools to further discriminate against LW faculty, as discussed in Part II.A. However, the ABA should afford LW faculty with the same status as tenure-track, non-LW faculty by amending Standard 405 so that it eliminates Standard 405(d), pertaining to LW faculty, and instead classifying LW faculty under Standard 405(b), pertaining to tenure-track

143. Blake, *supra* note 2, at 204–05, 215–18.

144. *Id.* at 204, 215, 240; *Section 1557 of the Patient Protection and Affordable Care Act*, U.S. DEP’T OF HEALTH & HUM. SERVS., <https://www.hhs.gov/civil-rights/for-individuals/section-1557/index.html> (last updated Feb. 3, 2023); *see also* 42 U.S.C. § 18116 (2018).

145. Walt Napier, *A Short History of Integration in the US Armed Forces*, U.S. AIR FORCE (July 1, 2021), <https://www.af.mil/News/Commentaries/Display/Article/2676311/a-short-history-of-integration-in-the-us-armed-forces>.

146. *See* TEPRING PIQUADO ET AL., RAND CORP., *AMONG BLACK AMERICANS, IS MILITARY SERVICE ASSOCIATED WITH BETTER QUALITY OF LIFE?* 1 (2022), https://www.rand.org/pubs/research_reports/RRA1202-1.html.

147. *See* ALWD/LWI SURVEY 2020–2021, *supra* note 1, at iv.

148. *See* Weresh, *supra* note 6, at 155–57.

faculty.¹⁴⁹ In doing so, the ABA could finally take a critical first step in eliminating decades of gender discrimination against its mostly women LW professors.¹⁵⁰ At the structural level, public stigma could be combated by requiring that LW and non-LW faculty be treated the same.¹⁵¹ Additionally, at the interpersonal and individual level, public and personal stigma may be reduced as law school faculty, administrators, and students begin to view LW professors as equally valuable faculty members.¹⁵²

CONCLUSION

For far too long, the American Bar Association (ABA) and legal academy have accepted this well-documented unequal treatment of legal writing (LW) faculty, all the while advocating for social justice causes outside the legal academy's pristine walls. What about equality for our colleagues? I tread heavily—not lightly here—as a LW professor because I, like so many other LW faculty, want to improve these conditions. My suggestion for eliminating stigma against LW faculty is simple: Treat LW faculty the same as doctrinal faculty by requiring all law schools to transition from limited-term, non-tenure-based LW to tenure-based positions. At this stage in our society—after #MeToo and at a time where women outnumber men in law schools nationwide—the ABA should move the legal academy and profession forward by destigmatizing its mostly women LW professors.¹⁵³

The same goes for law schools. If they strive to be anti-sexist institutions, they need to showcase that goal with respect to their own LW faculty, without whose assistance our nation's future lawyers would be woefully unprepared for the practice of law. At stake is the health of LW professors and our law students who continue to witness the denigration of LW professors. While law schools may express concern about the expense associated with changing LW faculty's status, the expense of not doing so must also be considered. Stigma harms. Stigma results in poorer health

149. See ABA STANDARDS, *supra* note 6, Standard 405(b), (d), at 31.

150. Of course, I would support a similar ABA Standard amendment for clinical faculty and law librarian faculty who typically also experience a lower status in comparison to their doctrinal faculty counterparts, as discussed in Part II.B, but I leave such advocacy to these faculty groups because they know their needs best.

151. *Cf.* Blake, *supra* note 2, at 215 (suggesting the law can help reduce stigma by prohibiting systemic discrimination).

152. See *id.* at 215–16.

153. Staci Zaretsky, *Women Are Dominating When It Comes to Law School Enrollment*, ABOVE THE LAW (July 14, 2022), <https://abovethelaw.com/2022/07/women-are-dominating-when-it-comes-to-law-school-enrollment/>.

outcomes, as discussed above. So, law schools will pay the costs of discrimination, unless they change workplace policies to show all faculty and students that they value LW professors. Such changes, if made by the ABA and law schools, while not “panaceas,” could serve as potential tools to combat stigma against LW professors and demonstrate that they equally value LW professors.¹⁵⁴

154. In November 2023, the ABA Standards Committee recommended significant changes to Standard 405(c) and (d) to the Council of the ABA Section of Legal Education and Admissions to the Bar. *See* ABA Standards Committee, *Revisions to Standards 304 and 405 for Approval for Notice and Comment*, at 1, 4–6 (Nov. 8, 2023) (on file with author and available at https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/nov23/23-nov-memo-revisions-304-405.pdf). The Association of Legal Writing Directors (ALWD) and the Legal Writing Institute (LWI) advocated for these changes. *See id.* at 1. The proposed amendments would improve LW professors’ employment security and ability to participate in faculty governance. *See id.* at 4–6. If adopted, ABA-approved law schools would be required to provide “all full-time faculty members with tenure or a form of security of position reasonably similar to tenure” and “reasonably similar participation in faculty meetings, voting, committees, and other aspects of law school governance.” *Id.* While these changes are a step in the right direction, the ABA should go further and require all ABA-approved law schools to provide tenure to all full-time faculty members to ensure equal treatment for LW, clinical, and academic support professors.