

Kris Turner:

Hello and welcome back to Wisconsin Law and Action, a podcast where we discuss new and forthcoming scholarship with the University of Wisconsin Law School Professors. I'm your host, Kris Turner, and my guest today is Assistant Dean for Academic Enhancement and teaching professor, Andrew Turner. Dean Turner oversees the Academic Enhancement Program, which works closely with law students to better prepare them for success, both during law school and after graduation. Dean Turner has also taught legal analysis, advocacy and writing to first-year law students and advanced legal writing classes focused on contract drafting. Before joining UW Law, Dean Turner worked as a corporate attorney, managed large federal grants, and worked in Bolivia where he helped indigenous Guarani communities navigate political and legal reforms. All this experience has resulted in Dean Turner's excellent classroom reputation with students often seeking out his advice on research and writing.

Today, Dean Turner is here to discuss his newest article titled Let's Not Be Creative: Rigid IRAC and The Hidden Power of Formalistic Legal Writing published in the Journal of Legal Education in 2024. The article examines the fundamental reasons why it can be so difficult for students and lawyers to become competent writers. The paper then explains how to best confront these issues starting by engaging more deeply with IRAC and often denigrated, but still foundational tenant of legal writing.

Thank you for joining the podcast today, professor Turner.

Andrew Turner:

Thank you, Kris for having me. I appreciate it. It's not every day that someone gives the opportunity to talk about a legal writing paper, so it's great to be here.

Kris Turner:

So let's start by bringing listeners up to speed on your professional background a little bit more. What's your experience in the legal field and academia?

Andrew Turner:

So I have a little bit of an eclectic background that kind of brought me to where I am and I think that kind of figures into how I think about legal writing and the way I write about it. So even before I got into law, I'm a second career attorney, so I spent a long time prior to coming to law school, my first career was as an anthropologist. I graduated from Wisconsin with an anthropology degree in 1993, and then spent the next decade living and working in Bolivia, doing a number of things, but primarily doing anthropology work with a nonprofit, working with the Guarani people. That was very formative in my life experience, obviously. After that, I came back to the United States, worked for a year with the World Council of Credit Unions, doing international credit union development work, and then went back to school to get my law degree and my master's in public affairs.

After that, as I always tell my students, I made the very natural transition from anthropology into corporate transactional law. So I graduated in 2008, so it was kind of right into the teeth of the recession in 2008, which made corporate transactional law a little bit dicey in the sense that there wasn't a lot of work happening, which actually in a way was a benefit to me because it got me involved in other practice areas. So I kind of dabbled in lots of things. I definitely did some corporate transactional law and some contract drafting. I also did a fair amount of healthcare regulatory work. I worked in energy policy, lots of different things I did when I was there. So I spent about three years working in the larger law firm context. Then worked back to nonprofit work where I was at a local nonprofit lender, so did some kind of legal and lending work with them. Then went back to the state and worked there for a year doing back to grant management work with some early childhood grants.

And so again, very eclectic kind of background. But in the background, the last two or three years prior to coming to UW, I dabbled in teaching at UW as an adjunct, teaching mostly legal research and writing and then contract drafting, and always loved teaching. In fact, my wife said to me, "Andrew, do you

realize that all throughout your life, no matter what you've done, you always dabble in teaching? Maybe you should think about doing that full-time." And so when the opportunity arose, there was a full-time legal writing position that opened up, and I applied and got the job and absolutely loved it. I loved teaching legal writing. Did that for about a decade as a legal writing instructor and then co-directing the program. And now, I'm in the role of the Assistant dean for the Academic Enhancement Program. So it's a long kind of varied history. I guess the point being that there's a lot of things that I did in my professional career that I think kind of inform how I think about these types of things.

Kris Turner:

It's a magnificent tapestry, your background is. it's very diverse and it really informs why you're so well-respected as a teacher and as a dean, So I realized when I was writing my draft of questions for you that we should probably talk about what IRAC is for some people. What does IRAC stand for exactly?

Andrew Turner:

So it's basically just a way of describing the organization of a single legal argument. Starting with the issue, just make the issue statement, then you describe the rules that the lawyer would use to explain or to describe or to analyze that particular issue. Then, you apply those rules to the particular facts of the legal problem, and then you arrive at a conclusion. For what it's worth, I used IRAC as kind of my organizing topic here, but to be honest, actually I prefer the CRAC form where you start with a conclusion. But to be honest, all of these particular ideas apply regardless of which of the variants of IRAC that one uses but that's the basic idea. It's a methodology for organizing a single legal argument in a coherent way.

Kris Turner:

I think you started to answer my next question already. What is it that makes legal writing so difficult for law students and lawyers to really truly grasp?

Andrew Turner:

Yeah, I think it's incredibly difficult, and in fact, one of the things I noticed with my law students is they see their schedule and they see criminal law or they see contracts and it seems like these really big intimidating classes, and then they see legal writing. It's like, "Ah, that should be fine," Especially students who have a writing background. And I always try to warn them ahead of time this is a very challenging class, and I think it's challenging for a couple of reasons.

One, I think good legal writing, like good legal analysis is extraordinarily precise and detail oriented. And I always tell students, I don't think there's any single distinction between a lawyer and a layperson that is more important than thinking and writing with precision in detail. Just recognizing that every word you use and the way that you use it can make all the difference in a particular piece of analysis. And it's hard for, I think, a student, who's going from layperson to lawyer, to really understand that you just can't kind of write in that kind of just normal, every day non-precise way and get the outcome that you need.

I think that the second thing is that when you're doing legal analysis, the very first thing that you need to do itself is extremely complicated, which is understand the problem yourself. I always say the first predicate to having any success as a legal writer is having the light bulb in your own head turn on. And I always said, "Not flickering, not pretty much there, you've got to know it's stone-cold because it's complicated enough that if you're not 100% there, you're going to have trouble." And I always give the example, I was a very good student in high school. When I got to my calculus classes in college, I struggled, and if you'd asked me to describe how calculus works, especially after going back and repeating the class and getting a much better grade in it, I could tell you pretty much how it works. I have a pretty good sense of the basics of calculus. I should absolutely not be teaching you calculus because having a pretty good idea of something is not nearly good enough to teach it.

And when you're doing legal writing, you have to be the person who doesn't pretty much get it, you have to be the expert on the topic, so that you have any hope of articulately explaining to someone else the idea that you have or the reason that you went through. And so getting students to really understand that it's not good enough to be pretty close, you have to know what you're talking about stone-cold. And that's, again, I don't think how we typically operate as human beings. Like we don't read the New York Times article until we're experts on the topic, we read until we get a pretty good sense of what's going on, and we have to get students past that hump of saying, "No, pretty good isn't enough for being a good legal writer." But then after all that's done, you've done all this hard work and you finally understand this topic and this analysis that, well, you have to turn around and do the next thing, which is somehow get another person to understand it.

So once the light bulb's done in your head, you have to get the light bulb in their head to turn on. And on top of that, you have to do it in an asynchronous way, writing on a sheet of paper where you can't talk to them or explain, you have to get it all on a sheet of paper, and you have to do it when they're tired, they don't particularly want to read what you've written because they've got other things to do. It's really complicated and you can't get them confused. So how do you basically take that entire really difficult stubborn process you went through, crunch it down to something that you can write in a few pages, and have the reader process it and go, "Oh, that makes sense. That's easy." And I always say to my students, "To me, the A paper is when I read it and go wow, that just made sense. That was easy." And one who does the writing realizes how hard it is to create that effect.

I oftentimes liken it to figure skating. If you see a great figure skater, they look elegant and beautiful, and it's almost simple and flowing until you try to do it, and then you realize how impossible it's to actually accomplish it. So I think there's a lot more that goes into great legal writing than maybe a person from the outside recognizes until they really try to do it.

Kris Turner:

I've fallen many times trying to ice-skate and I feel the same way for trying to do legal writing sometimes. And I think students really would appreciate that analogy because seeing it done elegantly, you think that is beautiful, but then to do it yourself, takes a lot of practice. So One thing you mentioned in your article is the Lake Wobegon effect. What is that? How does it come into play here?

Andrew Turner:

The Lake Wobegon effect references the old Garrison Keillor, I don't know if it was a podcast, I guess it was a radio program at the time where they talk about this, I believe it's a small community in Minnesota where everyone is above average, right? And it's this idea that all of us have this tendency to overestimate ourselves with respect to others. I don't think with everything, but in certain areas we tend to just have an inflated sense of our own capacity. And I tried to not make this too accusatory by making myself the subject of it when I talked about it in the paper. I said, "I tried to be, and I think I'm a relatively humble person, but if you asked me to give myself an honest self-assessment, I would say I think I'm an above-average professor. And if you asked me how I drive, I'd say I think I'm an above-average driver. And if you look at the statistics, all of my colleagues also think they're above-average professors and all of the other male drivers think they're above-average drivers." That's very common, yet some of us aren't, correct?

And so it's that natural tendency to overestimate the ability to do something. So we're very bad at self-assessing our own skill. And I think what makes it particularly problematic is that it can be dangerous, right? We're dangerous because, especially when we look at guardrails, there's all kinds of things in the world that are kind of guardrails to keep us from going off-track. But if my self-assessment is, "Oh yeah, that speed limit is for the other people who aren't really good drivers," then I tend to want to skirt those. I think there was this great statistic that I noticed in my research where I don't remember the number, but

some huge percentage of people recognize that texting and driving is dangerous, but they also text and drive. And the takeaway is everyone thinks, well, they can do it because they're above average at being able to manage things, and it's just other people who can't do it.

So it becomes very dangerous when we have that. Again, it can be kind of a humorous effect that we think that, but it actually leads us to skirting things that are there to protect us because we don't think those things apply to us.

Kris Turner:

Yes, you think you're above average so you can take more risks and maybe cut those corners, and that's not something you should do whether you're driving or doing this legal writing. A bit of an aside here, but you amusingly note how you sometimes worry that your talks with classes may come across as a teacher in Charlie Brown. How do you alleviate that concern?

Andrew Turner:

Yeah, I think as professors we always worry that we have that, again the Charlie Brown, the wah, wah, wah, wah and no one's really listening to us. I think we always worry about that, but I worry about it specifically when we start the semester and I worry about it because I try to start the semester with a little bit of what I just said here, which is this class is going to be very challenging and you need to listen to what I'm telling you, and you need to really lock-in or you are going to get lost very, very quickly and really struggle with this. And I'm pretty confident that most students hear me as a Charlie Brown teacher and don't really pay attention.

And I think it, again, is a very natural thing, a little bit it's the Lake Wobegon effect, but it's also their experience. I reflect, and I think most of the students we get in law school have been at the very top of their class their entire lives. They've always been really, really good students. And as a result, they've heard that speech 16 years in different, and they heard it 12 years through high school and 4 years through college and it never applied to them. They were never the ones that was directed at. So why would they suddenly think it applies to them? They've learned to kind of tune that out when the teacher gives the this-is-going-to-be-really-hard-for-you warning, they can just tune it out because they're going to, I wouldn't say coast, but they're going to apply their skill and they're going to succeed as they always have.

And so I figured why on the 17th go-around, would they think it applies to them? And at least in my experience, it pretty much universally does. I've never had a student who I read their first or second paper and thought, "Wow, they're just really, really good at this. Whether through intuition or background, they're just a really fantastic legal writer." It's not because they don't have the skills, it's just because I don't think there's anything like legal writing in normal life that would prepare a student to be able to do it effectively. So it's that how do you get through to them as quickly as possible?

Kris Turner:

We've seen similar instances in the legal research realm where people are saying, for 12 years plus 4 years, I've been doing this kind of research, I've been doing research, and therefore I can do it now. When we say legal research is hard, they don't hear us correctly, like Charlie Brown voice. I'm glad you did an impersonation of it, it was much better than the one I was going to do, I appreciate it. Why is it that as a writing instructor, you'd often have students not follow directions when learning how to effectively draft legal arguments?

Andrew Turner:

That's actually kind of where this whole thing started. I did not start out with this paper intending to write about what I did. It actually was a much shorter idea, which was I was finding myself getting frustrated

with some students and it was kind of a mystery because I have very, very bright students who are very, very dedicated and they really want to do well. They really are motivated to be exceptional in the work that they do. And yet, I would find myself telling them to do something and they wouldn't do it. And I don't mean that they couldn't do it. I can understand you might tell someone, "Here, I want you to recreate the Mona Lisa with these paints," and they try and it's really pretty bad. But you would expect them to try to paint a woman's face. That's what you would expect. And yet, I would find them painting an apple or using finger paints to draw their name, like just doing something that was not at all what I asked them to do.

And so I couldn't understand why it was that students, it wasn't they struggled, they just didn't do what I asked, and some very objective things, simple things like I would say make sure that you write your fact statement in paragraphs, don't have one block, have distinct paragraphs, et cetera, and then they wouldn't do it. Or I would say, "This is a particularity of the way I teach. I don't want you to use proper nouns in your question presented," and I have a whole reason behind why I don't do it, and then they would do it. And I think some of that is obviously just overwhelmed. There's so much to do in law school, some things get lost in translation. But there was a couple of things that I noticed that I thought were interesting that kind of piqued my curiosity.

One was a student who came in onetime. These are both anecdotes that I put in the paper, but he had been sick and missed a lot of class and he got really kind of crunched. And then, his paper wasn't very good. I gave the feedback. He came in, he said, "Yeah, Professor Turner, I realized I didn't do any of the things you asked me to do. I just got so behind, I think I just went feral". And something about when he said, I was like yeah, he just kind of reverted to what his instinct was.

And then, very close to that time period, I was reading an article, I believe it was in the New Yorker, about this horrible plane crash. I'm a little bit of a nervous flyer. I like to travel, but I don't fly very much. So I'm kind of morbidly curious about plane crashes. And it went into this big long discussion of this plane crash and what was so interesting about it was that apparently, at least according to this account of the crash, the pilots basically got overwhelmed and reverted to instinct. And if you have any understanding of planes, if you pull back on the stick, the plane goes up or at least the nose goes up, if you push forward, it goes down.

And very counterintuitively, and don't quote me on this precisely 'cause I'm not a pilot, but the basic idea is if a plane is stalling, you need to push forward and actually dive the plane because you need speed to be able to regain lift, but that's very counterintuitive, right? If you are falling, you want to do the thing that generally makes the plane go up. But again, this is kind of under that pressure, they kind of "went feral" as well. And so it made me really think, is there something to this idea that when people get highly stressed, they tend to revert to instinct?

And so that's kind of where this started is this idea that yeah, if you look, there's this weird kind of comparison where in the modern world, there's this kind of unique, or at least I think of it as this unique mix where you've got a lot of time pressure, something that's very, very complicated, something that's non-intuitive, and you have to perform very quickly under those constraints. And obviously, flying a plane is very different from being a young law student, but there is some similarity that you're doing something not intuitive, you're under a lot of stress, a lot of pressure, and the time is very short. And in those circumstances, I think there's a very strong temptation to revert to instinct. And these are students, who even if you don't have maybe an instinctive way of writing necessarily, you do have a very practiced way of writing, you've done it for 16 years, and also you've learned narrative styles from reading books or even watching TV shows. It's a narrative approach to things.

And so as you start to get stressed out, I start turning back into the Charlie Brown teacher and you start reverting back to kind of the, "This is the way I've always done. It's always worked for me. It's always been successful. I'm under stress to just do what I know how to do." And it doesn't work and it doesn't work the way they're expecting it to work.

Kris Turner:

So how is it that IRAC, a process that many professors and students especially have pushed against could come to the rescue?

Andrew Turner:

So the way I was thinking about this is kind of like standard operating procedures, and I realized that IRAC in a lot of ways is a standard operating procedure for organizing a legal argument. And just to be clear, I do want to point one thing out. I think there's a lot more than IRAC that goes into good legal writing or even good structure. In fact, I'm not even sure it's maybe the most important one. I tend to think large scale structure is extraordinarily important in terms of how you think what the different arguments and how they fit together. But IRAC is a nice clean example of one of these procedures that we use in legal writing. And so to me, what's interesting to me about standard operating procedures is they get us to do things that we don't normally want to do, but that are good for us.

I was just thinking this morning, I'm using my electric toothbrush and it vibrates every 30 seconds to tell you that you've finished that quadrant of your mouth. Why am I being prompted with this procedure to do it every 30 seconds in four different quadrants to reach the full two minutes? Because I wouldn't do it normally, right? I'm going to shortcut it right, eh, a minute's good enough or whatever. If everyone was just kind of naturally brushing their teeth for five minutes, we wouldn't have any of these procedures, but the dentist has to tell us make sure you do it for two minutes. And then we have to have a brush that kind of vibrates to tell us we've reached the two minutes. So standard operating procedures are these things that kind of step in to basically say, "I know what you want to do. I know what you kind of instinctively feel you should do. I know you think that you can do this on your own. We don't care. You're going to follow the procedures."

There's a reason that airline accidents decrease when you require pilots to have a checklist of what they do, and they've done it a thousand times, but the rule is you do it again. You follow it. When you tell physicians you have to wash your hands in a particular way every single time and again, because of Lake Wobegon effect, we tend to feel like these kind of overbearing things that we're forced to do where we could just do what we know how to do. But the problem is, again, we think, we self-evaluate that we can do it, but over and over again it's proven that we can't.

And so IRAC is kind of a standard operating procedure. It says you think that you can just explain this legal concept just intuitively and the other person will get it. And the reality is they don't, very rarely do they. And so this is kind of saying don't organize it the way that you think makes sense, right? Instead, we're telling you this is the way that has worked traditionally, consistently, and you need to kind of do that.

I guess I'll say one last thing is almost inevitably when I have found myself bristling against IRAC or feeling like, "Ah, this just doesn't fit the situation," when I've really, really worked at it, I realized it was me, not IRAC. It was me that was not completely understanding how to break the arguments apart. I had mixed two arguments together or separated two that should have been in one or done some other thing where I wasn't clear, and it was my dedication to forcing myself to use IRAC that actually made me realize where I had been making some mistakes in the analysis or hadn't been clear enough. So it's basically, again, saying when things get tough and complicated, you need to do what we know works, not what you instinctively feel.

Kris Turner:

I've seen that sometimes too where people they need to take a couple steps back. IRAC is not working for them, it must be IRAC's fault. But then you step back a little bit and get more perspective, now suddenly,

wait a minute, there is those issues that are getting conflated or I'm just doing these things that way, this is really informing me that I should revisit IRAC when I'm doing my own kind of writing in the legal realm as well. On top of that, now I have a great recommendation for a toothbrush that I desperately need in my own life for standard operating procedures. One thing though, one of the main pushbacks that I have heard against IRAC is it stifles creativity. How can trying to stand out or writing creatively work against effective legal writing?

Andrew Turner:

I'd say two things to that. One thing I mentioned in the article is I bristle at this because I feel like people are conflating two different things. Working with structure does not mean you can't be creative. In fact, as I said in the article, I wish my students were more creative, not less creative, but I want them to be creative in other ways. I don't want them to be creative with how they organize a legal argument. I want them to be creative in how they think about a legal argument, how they analogize, how they describe facts, all these different things.

It's kind of like I'm thinking about playing the piano, right? Someone says, "I don't want to play in organized music. I just want to press the keys, and I just want to be free." It's like, "Okay, you can be free. Press the keys all you want, but it's not making music for me." And if I say, "Well, if you make me play chords," and I'm not a musician, so I'm probably using the wrong words here, but "if you make me play harmonies and chords and all these things, you're just stifling my creativity." It's like there's a lot of creativity to be had in making music following certain structures of how music works. There's no lack of space to be creative in it.

So I think there's tons and tons of space to be creative within it. That's not really the issue. I think I use, again, another metaphor within the paper of a house. If I say to someone, "Okay, we're going to build some housing. Every house needs a kitchen, a bathroom and at least a bedroom, those are the basic things we need to have." And so it's like, "Why do I find that stifling? There's so much you can do with that, but in order for the house to work, you kind of have a hard time making it work if you don't have a bathroom or you don't have a bedroom. And you can adapt those tremendously, maybe again, as the example in the article is if you have a pair of retirees living in Downtown New York City, their bathroom might look very different from a family farm where they have seven kids and a mom and a dad and a brother living with them and working and doing chores every day. The bathrooms might look very different.

And so there's a lot of flexibility and creativity that you can do in legal writing. I just think that the IRAC structure, again along with other structures allows us to be creative and be thoughtful and make amazing arguments, but still stay within the procedures that allow us to actually get that information to the reader in a way that the reader understands.

Kris Turner:

You had mentioned the word guardrails earlier, and that seems very apropos of what you're suggesting here is IRAC is providing these safety guardrails to get your point across in the way that's easily comprehended by others that are reading while still allowing that creativity that is encouraged by both you and other legal writing professors.

Andrew Turner:

It's one of the things, as I said I think in the paper as well, is that if we think about, again, I use pilots and surgeons and other people who do high level kind of complicated work, IRAC, in doing it well, guarantees a certain level of quality. And so if I go into my surgeon, I want my surgeon above all not to be creative, I want her to be competent. I want her to do her job well, same the pilot. I don't want my pilot to be creative and innovative. I'm like, "No, I would just like you to get me there in one piece."

Again, I do think there's more than enough space within the IRAC framework to be incredibly creative, but those procedures and those kind of guardrails keep us from making the mistakes. And again, I'm sure there are many pilots and many surgeons who would say, "I don't really need these procedures. I'm good enough that I could be better, just kind of freestyling it." But again, back to the Lake Wobegon effect, you're probably self-assessing that incorrectly. And I am not trusting you to self-assess correctly to let you just go off and do your own thing. Experience tells us let's all do things according to the way it's supposed to be done that we've proven works and you can be creative when you write your novel on your own time.

Kris Turner:

I think writing the novel is where you had said conflating two things. People think writing, they think creative writing, and that's not necessarily what we're looking for in legal writing, which has space for all of these things that you just mentioned. Speaking of, how can the formalistic writing imposed by IRAC create better writing overall?

Andrew Turner:

Yeah, and I think it comes up, we just talked about, which is this idea that, again kind of the standard operating procedure idea, which is if we have figured out that certain things work and they're effective, I'm going explain the rules to you before I go in and apply those rules to facts. That, from a reading perspective, I have found consistently, again I read a ton of student work and a ton of memos, when people do that, it just works. It makes sense. I also know from a writing perspective, it doesn't feel like that. When you're writing it, it feels kind of unnatural because you just want to explain it. You just want to tell the reader how it works. And almost naturally, we kind of flow back and forth between rules and application back and forth and from a reading perspective that just doesn't work that well. And so it's back to this guardrails' idea that once you kind of force yourself to recognize that these are structures that work and they're structures that create that effect, then it makes things better.

Again, I'm fairly, I've never done figure skating, I've barely done skating, but I'm fairly sure that as a skater, certain very elegant, beautiful moves don't necessarily feel elegant when you're doing them, but it's not necessarily how you feel when you're doing it, but what the person from the outside looking in perceives. And so if there's certain ways of writing that cause us, again back to this basic idea, to me great legal writing is legal writing where the reader doesn't say, "Wow, that was really creative," or, "Wow, that was so innovative." What they say is, "That just made sense."

Again, if I get into an airplane and I have a mystery novel, and the first sentence is the butler did it at the end, that doesn't meet my needs. I want it to be long and kind of obtuse and hard to figure out with lots of twists and turns because that's what I'm looking for in a mystery novel. But when I sit down for a legal brief, I'm not looking for twists and turns. What I want to do is understand the legal argument with precision and quickly, that's what I'm after. And so to me, the absolute maximum takeaway from a legal brief that's a great one, it's like, "Wow, that just made sense. That's really clear."

And again, if you've ever done legal writing, making something or legal reading even more, how many times have you read something legal and said, "That was just so clear." It's really, really hard to do that. But that to me is the best legal writing ever. And I think, as I tell my students sometimes, one thing you may notice is as you get to higher levels of the court system where judges have again proven themselves as they've moved up the ranks, the writing tends to get clearer. It is not more obtuse, it tends to get... Very complicated topics, but some of our greatest jurists are some of the ones that were able to express their ideas cleanly and clearly.

Kris Turner:

One more time, let's just drive this home and some. So why should law students trust the IRAC process?

Andrew Turner:

They should trust the IRAC process essentially because it works. They need to understand that legal writing is for the reader, not for the writer. It's a very pragmatic type of work. It doesn't mean it can't be interesting, exciting, creative, but you're being interesting and creative for the good of the reader and giving the reader what the reader wants. And so we should be extremely focused on not what makes it easier for us to write. And again, I find that most often when people want to leave IRAC behind, it's because from the writer's perspective it's hard to do and it feels wrong. And I tell students, it doesn't really matter what we feel. It's not for us, it's for the reader.

And so if as a young legal writer, you want to be effective, in other words, you want to write well, you want your readers to understand what you're writing, do the things that have proven to work in the past. And IRAC is a system that has been proven to work in the past in terms of explaining things. And again, as we talked about earlier, I am convinced that almost every single time that I have felt like IRAC didn't really work or it could just be more flexible, it was really me not completely understanding the structure of myself or not really getting things clear. And so by forcing myself to hew to these particular standards, it made my thinking clear, it made my reasoning clear, ultimately made my writing clear and got me where I needed to be. So it's again, it's about this mentality of saying you're not writing for you, you're writing for the reader, and this works.

Kris Turner:

What do you most hope readers take away from this article?

Andrew Turner:

From one perspective, I think having more appreciation of what IRAC really is. I think because it's hard to use and because it's not intuitive, I think a lot of us, and I know I did this in the past, kind of teach IRAC like its training wheels, like just do this for now and then once you have experience, you can leave it behind and you can go on. And I don't think that's true. I think I want people to use IRAC. I want them to appreciate it in terms of it really being powerful. It's not just kind of this training wheels type thing. It's actually a powerful tool that can make us better. So I think starting with that, just the recognition that IRAC shouldn't be taught with apology, it should be taught as the powerful tool that it is. I think that's number one.

I think number two, maybe just to think more generally about legal writing and think about other things that are similar. I find a lot of times... I'll give you one example. We get into some pretty intense debates among my legal writing colleagues about things like for instance, starting a case illustration with the case name. I'm a little unorthodox and I don't like to start with the case name. I feel like that's kind of wasting the reader's attention on something they're not really interested in and that will come up in the citation anyway. There's more nuance to it, but that's a basic idea. But we have this back and forth, and there's clearly reasons in favor and reasons against doing that way. But what absolutely drives me crazy is when students do it because that's what they've always heard. And I'm convinced most students do it that way just because that sounds like what they think legal writing should sound like. And I'm always saying, "No, you need to think about why are you doing it this way? What is the purpose for doing it this way?"

And if a student can articulate to me, "Well, I use the case name first because, for example, I think this case is so important, this area of law, that I want to make sure the reader recognizes that this principle is coming from that famous case," great, okay, that makes sense to me. You give me a good reason why you would do it that way. But if they say something like, or effectively just say, well, that's just how it's supposed to sound, that I find to be really poor thinking in terms of legal writing.

So I guess from a broader perspective, I really want legal writers to really think about what are we doing

and why are we doing it that way. And really kind of test their theories and think through, again, legal writing as a profession, as a skill, as something that takes a lot of time to master. And that again, intuitiveness isn't necessarily the best metric for determining what does and doesn't work.

Kris Turner:

I really liked your description of IRAC, not as training wheels, but as something more integral to the entire operation. It seems more like just to take your bike analogy a bit more, maybe a chain or the actual pedals themselves, something that is a core part of the entire machine that should not be discarded once you're more comfortable, it maintains its position of importance going forward. Is that fair to say?

Andrew Turner:

I feel like I need to rewrite the article. I like that. That's a great analogy. You don't drop the chain from the bike as you get more experience. It continues to be integral to its functioning. I like that. May need to be-

Kris Turner:

Well, thank you. It's just some Turner and Turner mind melding going on here for our article discussion. But let's shift gears really quickly, more bike discussion there, thank you very much. In your current role as Dean of the Academic Enhancement Program, what are your future goals for the program?

Andrew Turner:

It's been interesting. I love teaching legal writing and I hope to continue doing it in the future while also doing the position of the Assistant Dean of Academic Enhancement. But it's been a fun transition as well because I feel like there's a very similar process. Legal writing, in most law schools and certainly Wisconsin, it's the first place students get feedback. Their first grades come from the legal writing professors. We're also in small groups, so we get to know students a lot better. And so a lot of that kind of climbing up that learning curve or that confrontation with law school where it's very difficult at the beginning and to figure it out, I think we see that in the legal writing classroom first. And it's made me very kind of attentive to the struggle that students go through.

And so it kind of pains me sometimes to see how many students struggle with law school, not because they're not bright and not because they're not hardworking, because they just don't know what they're supposed to be doing. They just don't understand. Just as a very basic example, they've again spent 16 years, most of which was learning facts and then proving to the professor they knew the facts. And then they get here and we're just not doing that, it's just a different thing. And you can tell a student that, but getting them to really understand that it's a different thing that we're doing and their expectations are different, and the kinds of things they're expected to do are different, it doesn't sink in easily for a lot of people.

I was talking to a young woman just a few weeks ago, and we're deep into the second semester and we walked through an example of legal analysis, and I talked to her about, as an example, why it makes a lot of sense to say, take a particular legal problem and break it into different arguments instead of trying to do it all at once. And then how that would lead to that kind of the IRAC idea, how you could process each piece separately and then tie together with a roadmap, et cetera. And she was like, "Wow, this makes so much more sense. It is starting to make sense to me." And I'm like, "Yes," and I wish we could have gotten her there way back because she's just as bright now as she was before, she has just as much skill and talent, but it's taking her months to kind of get that to click.

So one of my goals is to try to help students make that connection more quickly 'cause one of the, I think, frustrating realities of law school, and I don't particularly like this, but it's reality, is that those first-year grades make a big difference in terms of what kind of opportunities are afforded to students. And it just is

a shame, I think, that so many students get behind the eight ball very early on or become demotivated. They lose confidence in themselves when they don't really need to. So I think of my job as trying to reach every single student in the law school and help them be as successful as they can, as quickly as they can and frankly, across the board.

I think sometimes there's this misapprehension that AEP or academic enhancement programs are for struggling students, and while that's certainly true, I want every student to get more out of their time here than they would've had we not been here. Top of the curve, bottom of the curve, somewhere in the middle, I think of my job as taking the entire curve and moving it up so that everyone across the board does better. And I think my ideal situation, I don't think this will happen, but I hope it happens someday, is to have some of the faculty come to my office angry because they can't curve the exams, they're all too good. There's no one at fault. They're all great. Everyone is getting it. I don't know what to do anymore.

Kris Turner:

Well, I hope that you attain that goal 'cause what a wonderful goal that would be to have everyone just at that top tier. And I hope that the law library and the law school can support you in obtaining that goal at some point.

Andrew Turner:

The law libraries are always keyed to our mission, a hundred percent.

Kris Turner:

Thank you. I had to set you up for that compliment, I'm glad I got there.

Thank you very much for joining the podcast today, Dean Turner, Professor Turner. It's been really a privilege to discuss this important concept, and I'm glad we're getting the word out there.

Andrew Turner:

Thank you so much for having me. Again, I really appreciate the opportunity to talk about legal writing. We don't get to talk about it enough, so thanks for the time. I appreciate it.

Kris Turner:

Of course, of course.

We've been discussing Dean Turner's newest article, Let's Not Be Creative: Rigid IRAC and the Hidden Power of Formalistic Legal Writing published in the Journal of Legal Education in 2024. You can find this article along with a complete listing of Professor Turner's scholarship in the University of Wisconsin Law School Repository.

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