Avoiding “Ally Theater” in Legal Writing Assignments

By Emily A. Bishop

Emily A. Bishop is a Westerfield Fellow and Director of the Lawyering Program at Loyola University New Orleans College of Law in New Orleans, La.

Writing assignments play an important role in our students’ first year of law school. Students immerse themselves in the fact patterns and relevant rules of law for weeks at a time, inhabiting a fictional world with very real issues and problems. That immersion creates a long-lasting impact. Thus, legal writing assignments provide a good opportunity to introduce topics that require students to “address the needs and problems of a multicultural society.”

Topics that implicate issues of race, gender, or sexual orientation can spark student interest and generate challenging but enlightening discussions. The most substantive method of incorporating issues of diversity into legal writing assignments involves an assignment centered on “competing claims or values among diverse populations.”

In 2018, the need for these assignments seems particularly strong. Events such as the 2015 United States Supreme Court decision in Obergefell v. Hodges suggest that we are “teaching in the tip,” as certain issues are “teetering between becoming closed or remaining open as a matter of public policy debate.” Events such as the August 2017 white supremacist rally in Charlottesville, Virginia, show that battles for basic civil rights are not over. When law schools decline to address current events that lay bare the role of the legal system in perpetuating inequality, all students suffer from the lost opportunity for dialogue, and students from marginalized communities can find the school’s silence demoralizing and dehumanizing.

A complete discussion about incorporating these issues—particularly issues of race—into the legal writing curriculum requires acknowledging that the legal writing profession is overwhelmingly white. “[I]n the 2014–2015 academic year, 88.6% of all [LRW] faculty were Caucasian,” as were 73% of new hires for the 2014–2015 academic year. Thus, at many law schools, first-year writing assignments are likely planned and executed by an all-white or majority-white team of professors.

This fact carries risks. A possible solution to these risks involves the diversification of the legal writing community. But that takes time. Meanwhile, if white professors collectively back away from writing assignments implicating issues of race, effectively sitting in a holding pattern until law faculties diversify, they risk signaling to students of color that these issues are not important, or not relevant to the work of a novice legal writer. A better strategy

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1 Charles R. Calleros, Training a Diverse Student Body for a Multicultural Society, 8 La Raza L.J. 140, 140 (1995).

2 Id. at 153.

3 Jamie R. Abrams, Experiential Learning and Assessment in the Era of Donald Trump, 55 Duquesne L. Rev. 75, 78 (2017). In Obergefell v. Hodges, 135 S. Ct. 2584, 2604-05 (2015), a majority of the United States Supreme Court held that the right to marry is a fundamental right protected by the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and therefore states must recognize lawful same-sex marriages performed in other states.


6 See, e.g., Teri A. McMurtry-Chubb, Writing at the Master’s Table: Reflections on Theft, Criminality, and Otherness in the Legal Writing Profession, 2 DREXEL L. REV. 41, 56 (2009) (noting that teachers from minority groups offer perspectives that “challenge closely held norms and create, and re-create, different legal truths.”).
"White privilege and ignorance could lead a well-meaning white professor to execute an assignment in a way that magnifies the problems faced by law students from marginalized groups."

for white professors involves more thorough study of the construct of race, racial bias, and their effects on law students of color before introducing writing assignments on potentially charged topics. This may allow them to use their privilege to provide a forum for discussion of issues of race, in a way that will not disproportionately burden students of color.

In this article, I use the concept of “ally theater” to reframe some of the risks inherent in white professors’ use of legal writing problems centered on issues of race. In Part I, I explain the origins of “ally theater” in online social media, discuss the risk that a similar phenomenon could occur within legal writing courses, and identify a more effective form of allyship for white legal writing professors. In Part II, I recommend that white law professors—whose privilege makes them less inclined to notice the conditions that cause law students of color to bear additional burdens in comparison to their white counterparts—assume that these conditions are present in their classrooms. In Part III, I list specific strategies that white legal writing professors can use to address the assumptions presented in Part II.

I. What is “ally theater”?
I have borrowed the concept of “ally theater” from BGD, a blog and online forum designed “to amplify the voices, experiences and expressions of queer and trans people of color.” There, Princess Harmony Rodriguez, a trans woman, described an online phenomenon she calls “violent solidarity”: a member of an in-group, who wants to be seen as an “ally” to a marginalized group, engages in a kind of theater, performing acts of public allyship. The self-described ally supposedly “calls out” oppressive behavior by sharing content on social media depicting violence against marginalized group members. In sharing this content, however, the ally engages in “a form of mental and emotional violence” by reminding readers from the marginalized group “how much [they are] despised, detested, and reviled for being who [they are]” without actually providing meaningful help. Whether the self-described ally does this only to earn “a pat on the head” from readers or with less self-serving intentions, “neither one is okay.”

In another post, BGD Editor-in-Chief Mia McKenzie observed that “allyship' has become more pointless performance than anything actually useful to marginalized people.” McKenzie urged privileged people to avoid ally theater and instead strive for real solidarity, which requires action—specifically, “listen[ing]” to what marginalized groups ask of them and then do[ing] that.

The potential exists for white professors to engage in ally theater, perhaps unwittingly, in the legal writing classroom. White privilege and ignorance could lead a well-meaning white professor to execute an assignment in a way that magnifies the problems faced by law students from marginalized groups. The facts of a writing assignment on a racially charged issue will likely implicate violence toward, or institutional oppression of, a marginalized group. By introducing the assignment, the professor requires students from the marginalized group to confront the historical and ongoing mistreatment of their group. Not only that, but they must do it while competing academically alongside dominant-group classmates who do not face the same burden.

If the professor introduces the writing assignment without mitigating its burdens on students from marginalized groups, and without provoking dominant-group students to reevaluate their perspectives, the result is a form of ally theater.

In the rest of this essay, I offer suggestions to combat that risk. In Part II, I recommend

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7 See Versa A. Myers, Moving Diversity Forward: How To Go From Well-Meaning to Well-Doing 156-60 (discussing use of white privilege to fight bias).


assuming that existing classroom conditions disproportionately burden law students of color. In Part III, I offer specific strategies that the professor might use to mitigate those burdens.

II. Assumptions about the legal writing classroom

Law students of color must work to overcome burdens that do not exist for white law students. White professors cannot simply hope that students of color will automatically feel included in the classroom, or that no white student will ever make a biased remark. A better strategy incorporates the assumption that the following conditions impact any class discussion of race and the law.11

A. The legal writing classroom is a white space

First, white professors can assume that no participant in the legal writing classroom is a blank slate when it comes to matters of race. In many law schools, the legal writing classroom is a white space because human actions and events are evaluated mainly by reference to white perspectives and experiences.

1. White experiences are the baseline for evaluating all other events

As the longstanding beneficiaries of laws and institutions that benefit Caucasians, white people tend not to think about their own whiteness. Nor do they tend to think about individual norms as inherently white-specific. As a result, law schools operate within a “white racial frame,”12 and white professors and law students are disinclined to examine their schools history of exclusion of people of color, or its focus on a curriculum that prioritizes the theories of white elites. Furthermore, within this white frame, white perspectives are the baseline for understanding human experience, including the legal system. Thus, evaluations of the law are held out as “objective” or “neutral” even though they stem from a white world view.

Many community members of color navigate law school as outsiders. Meanwhile, because of the white racial frame, white participants tend to view their own experiences as the norm (instead of as products of their race), and the experiences of law students of color as abnormal. Thus, white law students may expect that law students of color will discuss the law without reference to their own experiences. And when law students of color do reference their own race-related experiences, white participants may judge these comments negatively as a failure to maintain objectivity.

2. White participants are likely to view racism only as a problem for people of color, and perpetrated only by individuals with invidious intent

The white racial frame also may affect white participants’ understanding of racism. First, white participants may view racism as a problem that does not involve them.


12 Pan, supra note 11, at 64. (explaining the “white racial frame” as “institutional, cultural, and historical processes that normalize whiteness at the expense of those who are not white”).
When these students do speak with emotion, listeners frequently dismiss their reactions as irrelevant and label the speakers ‘too angry’ or ‘too emotional.’

because they do not personally feel its effects. Second, white participants may be more inclined to “think of racism as voluntary, intentional conduct done by horrible others,” and not as institutional or structural racism.

This limited understanding of racism can lead white participants to assume that avoiding racism requires either colorblindness or the mastery of “some magical set of cross-racial manners” that will allow them to come across as a “good person.” They then may not recognize or acknowledge their role in perpetuating systemic racism.

3. White participants assume that white space is comfortable for everyone

Because white participants tend to think of whiteness as the norm, they tend to assume that the classroom is equally comfortable for all participants. In her study of students at two elite law schools, Dr. Wendy Leo Moore observed that white law students in the schools’ student council organizations typically chose bars frequented mostly by white patrons for law school social events, despite repeated requests from students of color for more racially mixed venues. She concluded that the white students “assumed that white cultural spaces would be acceptable to everyone.” Similarly, if the typical legal writing classroom functions as a white space, then the white students participating in the class are less likely to realize that others are apprehensive about it and the discussions that occur there.

B. Typical legal instruction emphasizes unemotional neutrality and objectivity

Next, the white professor can assume that elsewhere in law school—and perhaps even in the classroom—the students are learning that “thinking like a lawyer” requires both divorcing reason from emotion and prioritizing reason. This approach is superficially attractive because successful attorneys and business leaders are often known for their emotional restraint. But this “bleached out” view of law practice “assumes that it is possible for people to ‘check’ their identities at the door once they become lawyers” and likewise possible for law students to reject emotional responses to oppression in the law school classroom. This view disproportionately impacts students from historically-oppressed groups. When these students do speak with emotion, listeners frequently dismiss their reactions as irrelevant and label the speakers “too angry” or “too emotional.” Thus, students of color learn that to succeed in law school and law practice, they must suppress their emotional reactions to oppression.

1. Emotional reactions are frequently dismissed as irrelevant, and students who express emotion are labeled “too angry” or “too emotional”

Many law professors deliberately or unconsciously discourage expressions of emotion in the classroom. The ability to recognize and isolate emotional responses is important to legal work. Nonetheless, the automatic labeling of personal speech as unacceptable tends to legitimize the comments of white men (whose comments are not viewed as personal because white experiences form the basis for social and legal norms), and to devalue the comments of students of color and women. Professors might signal the unacceptability of emotional comments by fumbling to incorporate them

13 Wildman & Davis, supra note 11, at 897. See also Mia McKenzie, Whack Jobs Are Not the Problem (You Are), in Black Girls Dangerous, supra note 8, at 57-58.

14 Irving, supra note 11, at 126.

15 Moore, supra note 11, at 99-100.

16 Pan, supra note 11, at 73.
into the broader discussion or dismissing them entirely. Fellow students can signal that these comments are unimportant by rolling their eyes or holding side conversations while a classmate speaks.

In a classroom where most participants assume that legal reasoning requires absolute neutrality, expressions of emotion do not merely expose students of color to short-term embarrassment. They can also be costly in the long term, because the law professor and classmates may view these students as “biased” and “unlawyerlike.” In two studies of racism and racialization in the law school environment, the examiners observed white law students’ tendency to characterize students of color who challenged the white frame as angry. Dr. Moore observed white students dismissing the perspectives of black men as “angry” or “too focused on issues of race” regardless of how much care the men took to manage their demeanor when speaking about race, or even whether they spoke about race at all. During her two-year observation of students at two law schools, Dr. Pan observed that Latina and Asian American women law students feared that when they spoke on issues concerning disenfranchised communities, they “risk[ed] delegitimizing their position among peers and instructors who perceive them as angry.” Even when these women tried to temper their remarks, “many still [felt] stereotyped as angry the moment they open[ed] their mouths to speak about a gendered or raced topic.” These reactions from professors and classmates can heighten students’ fears that they will distance themselves from the subject matter they must discuss.

C. Law students of color have borne the burden of white classroom space in the past

The next set of assumptions white professors must confront pertains to the classroom dynamics that students of color may have experienced in the past. The students’ past experiences may affect their perception of the legal writing classroom and their willingness to discuss race and the law.

First, law students of color may have been the targets of overtly racist comments from professors or may have witnessed professors fail to address racist comments by other students. When professors decline to address students’ racist reactions, students of color may feel compelled to address the racism themselves.

Second, law students of color likely have experienced microaggressions, or actions that reveal a negative or erroneous assumption by the member of a privileged group about a marginalized group. Even when microaggressions are unintentional, the professor’s actions can confirm stereotypes or generate negative messages about students of color. Microaggressions can make it more difficult for students from underrepresented groups to function in the classroom.

Law students of color also may have felt both hypervisible and invisible in the same classroom. Hypervisibility can result if students of color are underrepresented in the classroom, and their white instructors and classmates interpret their comments as representative of their entire race. White instructors may even call upon students

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17 Crenshaw, supra note 11, at 37.
18 See Moore, supra note 11, at 153-56 (noting white students’ description of one particular student as “an ‘angry black man’ simply because his computer screen background featured a picture of the Black Panthers).
19 Pan, supra note 11, at 155, 157.
20 What If I Say The Wrong Thing?, supra note 11, at 58-59 (2013). One incident frequently cited in discussions of microaggressions of academia is professors’ mispronunciation of the names of students of color. E.g., Pan, supra note 11, at 91-93.
“[S]tudents of color may choose either to squelch emotion in their reasoning or to disengage from these discussions altogether. Each choice comes with a heavy cost.”

of color directly to speak about their own experiences, offering “some sort of minority ‘testimony’”\textsuperscript{21} signaling that their experiences are outside the norm. Because the white experience is associated with objectivity, white students may feel entitled to question the validity of the perspectives of students of color, or to dismiss these perspectives as subjective. Thus, immediately after the white professor makes them hypervisible, the professor and classmates could render students of color invisible by questioning and dismissing their perceptions.

When faced with the burdens imposed upon them by white classroom space, students of color may choose either to squelch emotion in their reasoning or to disengage from these discussions altogether. Each choice comes with a heavy cost. The sublimation of emotion to reason often results in feelings of alienation. On the other hand, when students of color disengage, they forfeit an opportunity to hone their skills formulating cogent arguments about race and the law.

D. Law students of color need to be encouraged, not “saved”

Finally, a white professor’s efforts will be most successful if they acknowledge the ongoing efforts of law students of color to resist the white racial frame and promote each other’s success. This recognition will allow the professor to understand how students of color might process a racially charged writing assignment and related in-class dialogues. Additionally, it may deter the white professor from adopting a paternalistic stance toward students of color.

Law students of color often form informal social groups to discuss comments made by white students and professors, free from the risk that white participants will devalue their perspectives or emotions. Many also join official organizations as a means of coping with adversity and ensuring success in law school. Members of “panethnic student organizations”\textsuperscript{22} often commiserate about the lack of camaraderie in law school and receive guidance from upper-class students. Additionally, panethnic organizations assist members with networking, outlining, and preparing for final exams. Panethnic organizations also frequently organize programming on race-related topics that would not otherwise be available at the law school. The students who run these organizations often provide programming and support despite the heavy workload it imposes. Thus, the building and maintenance of support networks imposes another burden upon law students of color that their white counterparts do not have to bear. Awareness of these activities may reduce the white professor’s susceptibility to paternalism. White people are accustomed to depictions of white protagonists and white leaders. Thus, a white legal writing professor might easily imagine herself as the instigator of fundamental change within the law school. In reality, however, she is the one who is jumping in mid-stream. When executed with a white-leadership mindset, solidarity can easily become paternalism. This assumption of leadership by the privileged person is disempowering to students of color, and it is likely to lead to the unintentional version of ally theater discussed in Part I. A more reasonable goal for the white professor might be to play a meaningful supporting role.

III. Potential burden-lowering strategies

Aware of the assumptions identified in Part II, the white professor can avoid becoming overwhelmed by them, and can instead identify strategies to facilitate effective classroom discussion. Many tactics for effectively addressing race in the classroom will be

\textsuperscript{21} Crenshaw, supra note 11, at 40-41.

\textsuperscript{22} Dr. Pan uses the term “panethnic” “to denote the conflating of ethnicity and race and the racialization process of ethnic individuals.” Pan, supra note 11, at 195 n.5
familiar; the challenge is deploying them with a new perspective. In Part III, I present a synthesized, non-exhaustive list of teaching techniques aimed at reducing the burdens identified in Part II.

A. Attempt to deconstruct the white space in the legal writing classroom

First, challenge the notion of whiteness and white experiences as the norm against which all human actions are evaluated. This may involve an initial introspective phase, in which the white professor examines her own bias and privilege, a preparatory reading phase for the students, and a phase of classroom activity.

The initial phase requires consultation of books, law review articles, newspaper or magazine articles, websites, and films that address the concept of white privilege. The professor might also consult practitioners who frequently address issues of race. By being proactive about research, the white professor can avoid calling upon people of color to provide education. By taking time for self-reflection, the white professor will be better able to recognize her own racial identity and how her teaching may have enforced the white frame in the past. She will also be better positioned to notice and discuss issues of bias when they arise during the course.

Next, use reading assignments to give students context before they receive the writing assignment. Readings that address the role of race, class, and gender in the law could set the stage for more meaningful discussion of objectivity as a construct defined by whiteness. Readings on the role of storytelling in the law could prepare students to address the role of personal experience in thinking like a lawyer, and could signal to students of color that they need not divorce their feelings from the subject matter.

Although the literature identified in the first two steps might include white authors, it will be incomplete if it includes only white authors. Scholarship on whiteness from only white authors is incrementally better than a “bleached out curriculum” that does not address race at all, but it is more likely to exclude or distort the perspectives of people of color.

Further, when discussing matters of race, the professor could teach whiteness as one type of racial construct among many, instead of as the norm. This instruction could motivate students to question systems of law that evaluate behavior through the lens of white experience.

B. Acknowledge the role of emotion in thinking like a lawyer

A white professor might also reduce burdens on students of color by challenging the notion that thinking like a lawyer always involves the complete sublimation of emotion to reason. Throughout the course, the professor can explicitly note situations in which emotion plays a role in the lawyering process. For instance, the professor can explain the role of emotional competencies in effective interactions with clients, opponents, and decision makers, or note the role of morality when discussing policy considerations as a component of rule synthesis.

“Readings that address the role of race, class, and gender in the law could set the stage for more meaningful discussion of objectivity as a construct defined by whiteness.”
Once students receive the writing assignment, the professor can offer a corresponding opportunity for students to write about their personal reactions to the material. Journaling may allow students to tell stories that they want to share but feel uncomfortable presenting in class, or to respond to in-class controversies after further reflection. Finally, the students’ journal entries will allow the professor to more effectively gauge how they are reacting to the assignment and classroom events.

Journaling will be most effective when the professor is clear about how journal entries will be evaluated and who will read them. Students are less likely to find journaling meaningful if the professor signals that it is busy work, or if they must worry that the professor will share their thoughts with a broad audience.

C. Use strategies to lower the burdens white space imposes on students of color, and to prevent “forum failure”

The next set of strategies aims to minimize the extra burdens that students of color often face in the classroom by encouraging students to take risks, and by protecting against “forum failure.” Forum failure occurs when a tense in-class conversation “exceeds the comfortable and becomes devastating,” alienating speakers and chilling future speech.24

1. Earn students’ trust before introducing an assignment on a racially charged topic

First, a white professor could resist assuming that students will automatically trust her to facilitate a discussion about race and the law, and therefore could wait until several weeks into the semester to introduce the writing assignment. In the meantime, she can cultivate an environment of trust. For example, the syllabus could contain a content advisory that the course will cover issues of race that will provoke intense classroom discussions. The content advisory could allow students to mentally prepare for engagement with the subject. The syllabus could also explain the “core values” that the professor expects students to embody during these discussions. In the weeks before the students receive the writing assignment, the professor could demonstrate her commitment to these core values by modeling them inside and outside the classroom.

2. Develop, with student input, ground rules for class discussions

Second, the professor could encourage students to participate in difficult discussions about race by allowing them to create ground rules for those discussions. As consumers of online content, we live in the era of the “epic takedown.” The viral videos that appear in our Twitter and Facebook feeds often involve one-sided displays of rhetoric and wit that appear to leave the speaker’s opponent no room for rebuttal. Although it can be satisfying to watch when the speaker espouses views that we share, it does not prepare us for meaningful discussions with opponents. If the students have been subsisting on a steady diet of epic takedowns, they may be wary of the upcoming classroom discussions and thankful for rules that promote a more measured exchange of ideas.25

The professor might begin the guideline-setting discussion by explaining that discussing race and the law is difficult, but members of the legal community have a responsibility to do it. She could then identify specific lessons that students can learn from in-class controversy, including a greater understanding of underlying legal and policy

24 Creating ground rules is also a less ambitious project than full collaborative course design, which may not be possible in a first-semester 1L course, see Gerald F. Hess, Collaborative Course Design: Not My Course, Not Their Course, But Our Course, 47 WASHBURN L.J. 367, 379 (2008) (noting that 1Ls “start their legal education as dependent learners who look to their teachers to make initial course design decisions”), or teaching techniques that are harder for less experienced or untenured professors to spearhead, see, e.g., Susan Sturm & Lani Guinier, Learning From Conflict: Reflections on Teaching about Race and Gender, 53 J. LEGAL EDUC. 515, 541 (2003).

25 Allera & Rovner, supra note 23, at 399 (internal quotation marks and citation omitted).
considerations. Additionally, she could point out that thoughtfully formulating the guidelines will strengthen the communication skills they will need for the remainder of law school and in practice. The guidelines could be few and broad or numerous and specific, as long as they ensure that “minority opinions are respected, that no one is allowed to dominate the group, that divergent views are allowed full and free expression, and that there is no pressure to reach premature and artificial solutions to the problems posed.”

After establishing the guidelines, the professor could present students with a hypothetical in-class disagreement and ask them to apply the guidelines to solve it. If students establish and practice the ground rules before difficult discussions begin, they will feel more confident holding themselves and their classmates accountable as the course progresses.

3. Don’t call on students of color to “testify,” but don’t dismiss voluntarily offered stories

A professor can avoid the problems with hypervisibility and invisibility described in Part II by offering students the opportunity to share personal experiences through written assignments. Outside of class, the professor could practice extracting general principles from voluntarily offered personal anecdotes, and connecting those general principles to the subject under discussion, so that she will not be quick to dismiss a voluntarily offered story in class. For example, a professor could use a student’s specific story as a springboard for identifying substantive law or policy issues, underlying assumptions or biases, or ethical and professional considerations that would arise if a client were in the same situation.

4. Assume that mistakes will happen, and teach the technique of deliberate apology

When preparing students for discussions about race, the professor could prepare them for what will happen when someone makes a comment that offends others. When my students prepare for oral argument, I advise them to assume that mistakes will happen and to practice techniques for overcoming them. Similarly, executing a writing assignment that raises issues of race may go better if the professor and students do not live in fear of mistakes. Instead, everyone—including the professor—can assume that mistakes will happen during class discussion and prepare to deal with them.

The professor can set the stage for effective apologies in advance by distinguishing a deliberate apology (in which the speaker acknowledges that his statement caused pain or offense, directly apologizes, and, if necessary, asks the listener to identify the precise offending statement so the speaker does not repeat it) from “racing for innocence,” in which the speaker proclaims his innocent intent, avoids admission of wrongdoing, and cites irrelevant information to try to prove that he is a good person. The professor can also model the technique of deliberate apology for the class and have students practice using a hypothetical mistake. Practicing deliberate apology before an offense has occurred will make everyone in the classroom more likely to use the technique during a real discussion.

5. Practice techniques for teaching through tense in-class interactions

Apology alone will not resolve an underlying dispute if a speaker persists in expressing the beliefs that generated it. Therefore, students must also learn to help students navigate passionate discussions and disputes. In preparation for helping students to build this skill, the professor could practice techniques
for directly addressing biased remarks and teaching through conflicts between students. A white professor might be able to leverage her authority as the professor, and her privilege as a white person, to directly address biased remarks. Specifically, students may view her as less personally sensitive to issues of race. A white offender may have an easier time being corrected by another white person. And by proactively addressing the remark, the white professor relieves students of color of the burden of dealing with it.

With adequate preparation, the professor can also address a biased remark without derailing the discussion. The goal is not to change the speaker’s way of thinking but instead to get the speaker to consider the origin of his position. The professor could address the speaker in a manner that is not superior, accusatory, or sarcastic, and could ask the speaker clarifying questions to reveal the assumptions or beliefs underlying the comment. Then, the discussion of the underlying assumptions or beliefs can continue in a more abstract way, allowing the professor or other students to question the relevance or validity of the concepts without attacking the offending speaker directly.

Additional techniques are available when two students engage in a heated debate. First, the professor could quickly assess the reactions of the other students, acknowledge the tension, and reiterate the group’s earlier commitment to working through disagreements. The professor might also consider referencing previously-generated discussion ground rules. Depending on the situation, she could ask clarifying questions of each speaker (or, if they are calm enough, allow the speakers to ask questions of each other); she could ask each speaker to apply his broad declarations to other contexts, ask for data or information to support a claim, and identify morals and values underlying each position, then ask the class to discuss what role they should play in the formulation of rules of law. If she determines that the classroom is too volatile for the discussion to continue, the professor could end it temporarily and ask the students to write a short reflection paper on the topic for the next class. If necessary, the professor could speak to individual students between class meetings. During the next class session, she could ask the class to offer thoughts on the debate now that some time has passed.

6. Don’t mistake silence for contentment, and create opportunities for real-time student feedback

Given the risk that some students of color will disengage when the emotional burden of class discussion becomes too high, the assumption that all students are satisfied with the execution of the writing assignment simply because none have complained is risky. Instead, the professor could provide at least one method for students to provide anonymous feedback while the assignment is ongoing. For example, she could use quality circles or student advisory groups, both of which involve regular meetings with a subset of students from the class who have agreed to act as representatives. Of course, some students might feel comfortable discussing their dissatisfaction face to face, and the professor can encourage these conversations, as well. By obtaining feedback in real time, she can engage in course correction.

D. Remain accountable to students

Digesting student feedback is often harder than obtaining it. If a professor has engaged in extra preparation and ventured outside her comfort zone for an assignment, negative student feedback may be especially difficult to process. Nonetheless, remaining receptive to the input of students who feel dissatisfied, angry, or personally attacked in a discussion is
essential to the professor’s own growth, and to being an actual ally. Even the best professor cannot make all students feel welcome, safe, and competent all of the time; but a professor can demonstrate to them that she is trying, that she values their concerns, and that she strives for improvement.

E. Foster—but do not dominate—spaces in which students of color can discuss the assignment’s impact

A white legal writing professor’s efforts should, when possible, complement the activities of organizations designed to support students of color. For example, she might notify the leaders of these organizations that the 1L students will be tackling a writing assignment that addresses issues of race. This would allow them to decide whether to provide additional contextual programming or opportunities for discussion.

However, a white legal writing professor should think carefully before inserting herself into these spaces. A student organization’s meeting is not a place for the professor to explain the assignment, her feelings about it, or her feelings about the students’ reactions. It is not a space for her, period, unless and until the students extend an invitation.

F. If possible, make work visible to colleagues

Finally, the professor might share her work and reflections with other law professors. Particularly in a school whose curriculum offers few opportunities to discuss race and the law, this work could motivate other professors. They might worry less about the risks associated with the endeavor knowing that they can learn from a predecessor’s mistakes.

Incorporating issues of race and the law into legal writing assignments involves a certain degree of risk. With specific advance preparation, transparency, and accountability to students, professors may be able to ensure that the benefits of these assignments outweigh the burdens they often impose on law students of color.

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27 See Irving, supra note 11, at 163 (“Facing up to the unintended impact I could unleash on people through sheer ignorance was painful. . . . It taught me that efforts to defend my intent in the name of my ‘good person’ status had no place in this world or in my efforts to learn and grow.”).

28 Cf. Moving Diversity Forward, supra note 7, at 54 (“Being able to listen to a black person who is upset at you for something you did that offended them or at a racial situation that doesn’t involve you, may not be easy. However, it is part of learning to be an ally to black people.”).

29 Of course, the ultimate decision to share this information may depend on the professor’s level of seniority and job security.