Mobius Strip: The Elegant Interplay Between the Rhetorical Situation and AI Prompt Engineering

Susan Tanner[1] and Tracy L. M. Norton[2]

The Mobius strip is a continuous, never-ending loop, which seems to have, at once, one side and two. Traversing a Mobius strip, one eventually returns to the starting point but from a different perspective. The Mobius strip, a surface with only one side and one boundary, is an apt metaphor for teaching the Rhetorical Situation and AI prompting together. In a similar vein, through crafting and iterative refinement of prompts using the Rhetorical Situation as a framework, students revisit their initial understanding of both the Rhetorical Situation and prompt engineering, but with a richer, more nuanced perspective. This iterative process, while enriching students' understanding of the Rhetorical Situation, also equips them with the necessary skills to use generative AI as an effective tool in legal writing.

I. Introduction

Frequently, students perceive writing as a binary landscape of right or wrong, with their legal writing professors standing guard as gatekeepers, possessing the key to what is deemed "correct." Such an understanding, however, undermines the inherent expressive and experimental nature of writing, which is essential to the development of a skilled legal writer.[3] Skilled authors, as well as

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[1] Assistant Professor of Law, University of Louisville, Brandeis School of Law.
[2] Erick Vincent Anderson Professor of Professional Practice, Paul M. Hebert Law Center, Louisiana State University.
[3] Peter Elbow, *Writing With Power: Techniques for Mastering the Writing Process*, Oxford University Press (1998).

expert legal writers, exhibit a playful and experimental approach towards their craft. Their writing is characterized not merely by accuracy and correctness or fidelity to the norm, but more so by a unique style, creativity, and the aptitude to engage and persuade their readers.[4] The pedagogy of legal writing should ideally encourage such an explorative spirit.

In a world where students are competing for grades, it can be difficult to encourage such a spirit, especially within graded assignments. A growing body of research in writing pedagogy has started to challenge this traditional "gatekeeping" paradigm, advocating for a shift in the way we use and perceive rubrics. Rubrics should be tools that emphasize the understanding that various writing practices are choices that reflect specific values for different genres, rather than a rigid checklist that dictates what is right or wrong.[5] In line with this approach, this article proposes a novel method to demonstrate to students the flexibility of language and the importance of audience consideration in legal writing. The pedagogical shift away from a restrictive view of writing towards one that values flexibility and creativity can enrich the students' engagement with their work.[6]

Moreover, this article also describes a platform for students to familiarize themselves with the vocabulary of writing processes and values. Learning the language of writing can empower students to articulate their choices, their understanding of the writing process, and the value systems underlying their work. Such an understanding can significantly enhance the potential for

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[4] Stanley Fish, *Doing What Comes Naturally: Change, Rhetoric, and the Practice of Theory in Literary and Legal Studies*, Duke University Press (1989).
[5] Linda Adler-Kassner & Heidi Estrem, *Critical Transitions: Writing and the Question of Transfer,* WAC Clearinghouse/University Press of Colorado (2010).
[6] Patricia Anderson, *What's Your Point? Reading and Writing in College*, McGraw-Hill (2006).

student learning transfer, which is an essential outcome in writing instruction.[7]

Learning transfer refers to the ability of a learner to apply the skills, knowledge, and/or attitudes that were learned in one context to another context.[8] It is the bridge that connects what a student learns in one situation to another, allowing them to reuse and adapt their knowledge to solve new problems, answer new questions, or facilitate learning new subject matter. The concept of learning transfer is central to education and the ultimate goal of teaching, as it enables learners to apply their knowledge and skills beyond the specific conditions of learning. This ability is particularly essential in legal writing instruction, where the aim is not just to equip students with writing skills for a specific task or class but to develop versatile writers who can write effectively across various contexts and genres.

Understanding and knowledge of writing terminology play a crucial role in facilitating learning transfer in writing instruction. The vocabulary of writing provides a common language for both teachers and students to talk about writing, which includes the writing processes (such as brainstorming, drafting, revising, and editing), the elements of written texts (such as thesis statements, arguments, evidence, and organization), and the rhetorical concepts (such as audience, purpose, and genre).[9]

When students learn the language of writing, they are better equipped to articulate their writing choices, understand feedback, and reflect on their writing. They are also more likely to identify

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[7] Rebecca S. Nowacek, *Agents of Integration: Understanding Transfer as a Rhetorical Act*, Southern Illinois University Press (2011).

[8] D.N. Perkins & G. Salomon, *Transfer of Learning, in The International Encyclopedia of Education* 425 (T. Husén & T.N. Postlethwaite eds., 2nd ed. Pergamon 1992).

[9] Anne Beaufort, *College Writing and Beyond: A New Framework for University Writing Instruction* (2007).

similarities and differences between writing in different contexts, and thus better able to adapt their writing strategies to new writing tasks. This knowledge of writing terminology thus serves as a cognitive tool that enhances the potential for learning transfer. Moreover, familiarity with writing terminology can encourage metacognition, i.e., thinking about one's thinking, which is another key factor in facilitating learning transfer.[10] When students can name and reflect on what they are doing when they write, they are more likely to transfer what they've learned about writing to new contexts.

Technologies like generative AI have given professors and students a new tool to allow more creativity and experimentation without significantly adding to the labor of writing.[11] This article describes a technique that can help foster a deeper understanding of the rhetorical choices writers make and the influence those choices have on the production of text and the values of their audience. Further, it incentivizes metacognition and awareness of rhetorical strategies as a way to articulate the processes of writing when interacting with generative AI resources.

II. The Rhetorical Situation as a Teaching Tool

Our understanding of the Rhetorical Situation traces its roots to the origins of rhetoric in the Western tradition. In his work "Rhetoric," Aristotle explored the art of persuasion and identified three key elements that are essential to any persuasive communication: ethos (credibility of the speaker), pathos (emotional appeal), and logos

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[10] Yancey, Kathleen, Liane Robertson, and Kara Taczak. 2014. *Writing Across Contexts: Transfer, Composition, and Sites of Writing.* Logan, UT: Utah State University Press.

[11] Throughout this article, we use "generative AI" to refer to popular widely-available Large Language Models (LLMs) like OpenAI's ChatGPT 3.5/4.0, Microsoft's Copilot, Google's Gemini, and Anthropic's Claude, among others. We use "generative AI" and "LLM" interchangeably.

(logical reasoning).[12] Aristotle's conception of rhetoric envisioned a relationship between speaker, audience, and language.

As the discipline of Rhetoric evolved over time, so did the methods of analyzing it. In 1968, Lloyd Bitzer, in his seminal essay titled "The Rhetorical Situation," made a significant contribution to the study of rhetoric by introducing a more comprehensive framework for understanding the context within which persuasive discourse occurs. Bitzer proposed that the Rhetorical Situation consists of three main components that interplay to shape effective communication: audience, purpose, and context.[13]

The audience, as Bitzer elucidated, is the group of individuals who will be influenced by the rhetoric. It is crucial for the writer or speaker to understand the audience's characteristics, attitudes, beliefs, and values, as these factors significantly impact how the message will be received and interpreted.

The purpose, which is related to the exigence, represents the intended outcome or response from the audience. The purpose provides direction and focus to the rhetoric, ensuring that the communication remains targeted and purposeful. In legal writing, purpose dictates much about the tone the author uses; for example, the purpose of a memo is to inform whereas a brief is meant to persuade.

The context encapsulates the environment or circumstances that surround and shape the rhetoric. This context includes not only the immediate situation in which the communication occurs but also broader societal, cultural, and historical factors that can influence the message's reception and effectiveness.

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[12] ARISTOTLE, ON RHETORIC: A THEORY OF CIVIL DISCOURSE (George A. Kennedy tran., First Edition edition ed. 1991).

[13] Lloyd F. Bitzer, *The Rhetorical Situation*, 1 PHILOS. RHETOR. 1 (1968).

Bitzer's formulation of the Rhetorical Situation has become a cornerstone in the study of rhetoric and persuasive communication. It has been widely adopted in various fields, including composition studies, communication, and professional writing, serving as a fundamental framework for analyzing and understanding the complex dynamics of persuasive discourse. Furthermore, Bitzer's ideas have been expanded upon and integrated into various pedagogical approaches. For instance, in the context of legal writing, understanding the Rhetorical Situation has been recognized as crucial for effective advocacy and persuasive argumentation (Edwards et al., Legal Writing and Analysis). By considering the audience, purpose, and context, legal writers can tailor their arguments to resonate with judges, juries, or opposing parties, thereby enhancing the persuasive impact of their legal briefs and motions.`

Because "legal communication" is a broad category, professors may struggle to find a starting point that gives 1Ls a smooth entry into the collection of skills students will learn in their first year. The Rhetorical Situation gives students a sort of aerial view of their goals with legal communication. Because the Rhetorical Situation informs a student's understanding of how to approach their communication tasks, the Rhetorical Situation is also a useful model for describing for generative AI what a user expects from it. Therefore, by integrating our teaching about the Rhetorical Situation into our teaching about prompt engineering, we can help students learn how to develop and refine their understanding of both the Rhetorical Situation and prompt engineering.

III. The Rhetorical Situation and Prompt Engineering

When we present to practitioners, judges, and fellow academics on using generative AI for our own productivity and in our teaching, we are often asked the same question: how do we design useful

prompts? Many who try out programs like ChatGPT for the first time become frustrated with the responses they get. Invariably, it is because the text of the prompts lack the depth of rhetorical knowledge that their authors take for granted. For example, the prompt might not include the user's role, which contains a wealth of information about the user's proficiency in both comprehending and communicating, or the audience's role, which contains similar information about the audience, or the context, which provides cues about the appropriate tone for the situation.

When law students are learning to write in a new genre, they are likely to not just forget to prompt with that information; they don't know the information in the first place. In essence, generative AI functions much like a new law student - it may have some knowledge of the topic, but it needs to be prompted as to the context and genre.

Thus, at a minimum, every prompt should identify the Rhetorical Situation of the writing. Using the Rhetorical Situation as a framework for prompt engineering introduces students to both in an environment that will provide immediate feedback through the resulting text.

Compared to other prompt engineering approaches, starting with an analysis of the Rhetorical Situation provides a more comprehensive framework, integrating author, audience, purpose, and context, rather than focusing solely on one aspect. Further, it reinforces the knowledge students are forming about writing terminology and techniques.

IV. Teaching the Rhetorical Situation in Law with Prompt Engineering

A. *Incorporating Rhetorical Situation into Initial Prompt Design*

One strategy for incorporating the Rhetorical Situation into prompt design is to have students create prompts that explicitly identify and analyze the author, audience, purpose, and context of the hypothetical legal situation or a task they want to complete.

For example, a prompt could be crafted to generate an evaluative memorandum, taking into account the author (a law clerk or judicial intern), audience (supervising attorney or judge), the purpose (to provide the arguments most likely to be made by both sides and to evaluate which is the better), and the context (the legal sources discovered by the author).[14] While a memorandum is a common document written within an organization, the LLM may not know specifically that a legal memorandum is written by a law clerk or junior associate for a supervising attorney who has superior knowledge of law and law practice generally but likely not on the specific issue addressed in the memorandum. So the original prompt's Rhetorical Situation will include that information.

That same prompt could easily be revised to reflect a new situation - for example, an advice letter to the client or a demand letter to the opposing party. ChatGPT understands the difference between law-trained audiences and laypersons, and between a memorandum and a letter, and can easily revise the same text to reflect a new Rhetorical Situation and genre, particularly when details about the client's level of education and understanding are included.

When students alter the constraints of the Rhetorical Situation, they receive instant feedback on how changing any variable – author, audience, purpose, or genre - alters the way the text reads. It focuses them to consider the characteristics that will influence

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[14] This article assumes that the user is able to "train" the generative AI platform to use a specific set of materials in generating a response. "Training" can be achieved easily through uploading a PDF or copied text in the prompt window along with the Rhetorical Situation-based prompt.

their writing. Teaching students about the Rhetorical Situation through prompts can help them understand and navigate different communication scenarios they might encounter in their legal careers. It also fosters critical thinking and precision, as they need to analyze the components of the Rhetorical Situation in each prompt and use language with care.

B. *Refining the Rhetorical Situation Through Iterative Prompting*

Iterative refining of prompts within a conversation offers a valuable teaching opportunity to make students aware of how adjustments in a Rhetorical Situation can significantly change the output. This process involves starting with an initial prompt, receiving a response, and then refining or modifying the prompt based on the response and desired learning outcomes.

For instance, if we begin a conversation with a prompt that asks students to craft an evaluative memorandum, the initial responses might vary significantly in style and approach.[15] These responses provide a concrete starting point for the next round of conversation with the LLM. Because the students have identified the genre of the text they are writing (evaluative legal memorandum) and fleshed out the Rhetorical Situation to fill in the blanks the LLM might not be familiar with, that information need not be provided in the iterative process.

The next step is to focus in on the specific characteristics of the Rhetorical Situation. By adjusting the variables of the Rhetorical Situation, such as the audience's predisposition (*e.g.*, shifting from

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[15] Worth noting here is that generative AI generates an original response; it is not retrieving a response from elsewhere. Therefore, if twenty students use the same prompt, they can expect twenty somewhat different responses. This provides a wealth of opportunities because students following the same instructions will have different responses to work with.

a knowledgeable supervising attorney to a client of average intelligence with a high school education), or altering the purpose (*e.g.*, shifting from a goal of presenting both sides of an argument to a goal of giving advice to the client), students can observe how these changes necessitate a shift in their rhetorical strategy. This iterative process is akin to real-life legal scenarios where attorneys must continually refine their arguments and associated work product based on changing circumstances.

The key is to ensure students understand why the changes were made and how they affect the rhetorical approach. This not only helps them to internalize the concept of the Rhetorical Situation but also equips them with the ability to adapt their arguments in a fluid and dynamic legal environment. Iterative refinement of prompts offers a practical, hands-on way for students to learn how to adjust their communication strategies in response to changes in audience, purpose, and context, mirroring the realities of legal practice. This dynamic process significantly enriches their understanding of the impact of the Rhetorical Situation on persuasive legal communication.

C. *Refining Voice and Developing a Rhetorical Vocabulary*

Once students have mastered the basics of Rhetorical Situtation, they can begin to tweak other aspects of style, voice, and expression, while gaining a richer rhetorical vocabulary. Professors can use the rhetorical knowledge that students are learning to help refine the prompts in terms of voice, modality, tone, clarity, concision, and precision.

1. *Varying Active and Passive Voice*

The choice between active and passive voice can significantly influence the effectiveness of a prompt crafted using the Rhetorical Situation framework. It can alter the clarity, engagement level, and

perceived responsibility within the scenario, thus impacting the audience, purpose, and context of the prompt.

- Clarity and Engagement: Generally, active voice makes writing clearer and more engaging. For example, compare "A contract was breached by Company X" (passive voice) with "Company X breached the contract" (active voice). The active voice is more straightforward and typically easier for students to understand and engage with.

- Perceived Responsibility: Passive voice can obscure who is responsible for an action. For instance, "A mistake was made in the contract" does not specify who made the error. In contrast, "The law firm made a mistake in the contract" (active voice) clearly identifies the responsible party. The use of passive voice may be strategically used in prompts where students are encouraged to identify the actors or where the ambiguity itself is a part of the Rhetorical Situation they must navigate.

- Audience: If the audience (students) prefers sentences with clear actions and actors, the active voice would be more effective. However, if the aim is to challenge the students or create a scenario with some ambiguity, passive voice might be appropriate.

- Purpose: Active voice sentences typically facilitate direct, assertive responses, making them suitable for situations that require clear-cut legal arguments or decisions. In contrast, passive voice might be useful for writing seeking nuanced or diplomatically phrased responses.

- Context: The context of the document might also dictate the choice of voice. For example, in a brief discussing a

contentious issue or a sensitive subject, the passive voice might be used to soften the impact or create a sense of distance.

Both active and passive voices have their roles in crafting documents using the rhetorical situation framework. Not only can students use voice in crafting their prompts, they can instruct the LLM to favor a particular voice to achieve the desired effect. The choice between the two should be strategically made, based on the intended audience, purpose, and context.

0.   Varying Modal Language

Modal language, which involves the use of modal verbs like "can," "could," "may," "might," "will," "would," "shall," "should," "must," and "ought to," plays a crucial role in creating the way texts are understood. It can significantly impact the tone, the level of certainty or speculation, and the perceived obligation or necessity within a scenario, thus influencing the audience, purpose, and context of the text.

- Tone and Certainty: Modal language can drastically change the tone and level of certainty in a text. For example, compare "Company X will be found guilty" to "Company X might be found guilty". The former leaves no room for debate while the latter opens a field for speculation and argument, which can be an essential part of a persuasive legal conversation.

- Obligation and Necessity: Modal language can also signal a degree of obligation or necessity. For example, a phrase like "Company X must comply with the regulations" signifies a mandatory action, while "Company X should comply with the regulations" indicates a strong recommendation.

Students often confuse modality of prediction with modality of obligation. Early in the first semester of legal communication instruction, it is often useful to draw students' attention to the modality they are using in documents like memoranda. If the law in a given area is fairly certain or predictable, but their language does not reflect that obligation, the students may be having difficulty using strong modal language because of their discomfort with the task of legal prediction. Giving them the opportunity to easily revise the modal language in their memos through prompting the LLM to use particular modal language can help them better reflect obligation in the law.

0.   *Tone: Varying Valanced Language*

Valanced language, characterized by words carrying a positive or negative connotation, can significantly influence the effectiveness of a message. As professors who teach legal commuication, we often discuss with our students the value of objectivity in legal communication, or at least the value of language that sounds objective, and many judges decry the use of overly valanced language. Maintaining an appropriate tone can affect the perception, emotional engagement, and the nature of the response to a text, thus impacting the audience, purpose, and context of the writing.

Once students understand tone, they can feed more accurate information into the prompt. For instance, they may choose to ramp up the positive language when telling the story of their client or increase the negative language when discussing the terrible fate that has befallen their client. Valanced language impacts text in significant ways.

- Perception and Emotional Engagement: Valanced language can change how a scenario is perceived and the emotional engagement it elicits. For instance, describing a company as "struggling" versus "challenging" introduces different

sentiments and assumptions. This, in turn, might influence the emotional engagement of the reader and their approach to the problem at hand.

- Nature of Response: The choice of valanced language can also affect the nature of reader responses. A negatively valanced text might provoke defensive or justification-based responses, while a positively valanced text may engender more sympathy or empathy.

- Audience and Author: When deciding on the valence of their language, authors should consider their audience. The language used can shape audience attitudes and the angle from which they approach the text. It can also shape the author's ethos. For example, a positively valanced text might engender identification with an author while a negatively valanced text might say as much about the author as it does the subject.

- Context: In certain contexts, the use of valanced language might be more appropriate or impactful. For example, in documents involving contentious issues or ethical dilemmas, the use of negatively valanced language could heighten the sense of conflict or moral tension.

Learning to design prompts that modulate the level and type of valanced language gives students a rare opportunity to immediately see the difference valanced language can make in how the text overall is received.

0. *Clarity, Precision, and Terms of Art*

Clarity, precision, and appropriate legal terminology are fundamental when using the Rhetorical Situation framework to craft and refine their legal analysis. Here's why:

- Clarity: Clarity is key to ensuring that students understand the question being asked, the context in which it's being asked, and what is expected of them in their responses. Without clarity, students might craft a prompt that generates less useful results, leading to frustration with the student's own ability to complete the task assigned.

- Precision: Precision helps define the scope and focus of the prompt. It helps guide students to think deeply about specific issues, rather than glossing over them in a more general manner. This can encourage the development of finely honed legal reasoning and argumentation skills. For example, asking students to evaluate the "*constitutionality* of a specific regulation under the Fourth Amendment" is more precise and instructive than asking them to evaluate its "*legality*."

- Appropriate Legal Terminology: The use of appropriate legal terminology not only ensures a high level of professionalism and realism in the prompts but also provides students with exposure to and practice with the language they will need to use in their legal careers. Furthermore, legal terminology can add a level of complexity and nuance to prompts that can help to deepen students' understanding of legal concepts.

Together, these elements play a vital role in crafting effective prompts that stimulate thought-provoking discussions, facilitate the development of legal skills, and provide meaningful learning experiences. They ensure that prompts accurately represent the Rhetorical Situations students will encounter in their legal practice, thus preparing them for the demands of their future careers.

V. Example Exercise

In this section, we describe a sample exercise that walks students through the process of crafting a Rhetorical Situation-based prompt and then refines the result through iterative prompting that asks for variations in the voice, modal language, tone, clarity, and precision.[16]

In this exercise, students are instructed to identify the Rhetorical Situation in an assignment they have completed. Assume for this example that students have written an evaluative memorandum in which they are a public defender representing a defendant charged with burglary of a dwelling, where the issue was whether the structure burglarized was a dwelling. This Rhetorical Situation could be described as a prompt this way:

> Acting as a law clerk in your first year of law school, draft a memorandum to your supervising attorney that analyzes whether the structure involved in the provided set of facts is a dwelling. I will provide the facts in an uploaded PDF [this could also be pasted from another document].

After students have identified this as a reasonable Rhetorical Situation-based prompt for the document they have already written, then ask them to refine the prompt to instruct the LLM to

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[16] The exercise presented here suggests instructions for students to guide them through the prompting process. If you would like to see the full iterative conversation, you will find it at https://bit.ly/tannernorton.

change the memo to a client letter advising her whether to accept a plea bargain or proceed to trial. That prompt would, of course, need to change the genre requested as well as the author and audience.

> Acting as a criminal defense attorney, draft an advice letter to your client suggesting she should seriously consider the plea bargain offered by the prosecutor. The defendant is a woman of average intelligence with a high school education. Avoid legal terms of art and instead use plain language for legal concepts. Use the uploaded PDF to help draft the letter.

The response will show the student the differences between providing an analysis to a supervising attorney and providing the same analysis to a layperson, and it will show the difference between providing an evaluation of the case and providing advice to the client involved. Students could be guided to make a series of changes to the author, audience, and purpose so they can further understand the myriad ways writing changes depending on changes in the Rhetorical Situation.

Next, students can be guided through a series of prompts to redraft the letter to see how nuanced changes in language alter the way analysis is received.

> Redraft the client letter as a letter to the prosecutor turning down the plea bargain offered.

> Redraft the letter to the prosecutor to refer to the defendant's actions in passive voice.

> Redraft the letter to use positive language to refer to the defendant's position and negative language to refer to the prosecutor's position.

> Redraft the letter to make the tone of the demand stronger.

> Redraft the letter to eliminate inflammatory language and adopt a more collegial tone.

By changing the prompts one variable at a time and considering the changed responses, students can better see the value in taking the time to identify a Rhetorical Situation and enhance it with rhetorical strategies.

VI. Conclusion

In conclusion, using the Rhetorical Situation as a framework for prompt engineering has numerous benefits, including enhancing student understanding of the power of their rhetorical choices. By linking prompt engineering to the Rhetorical Situation, students gain a deeper understanding of the Rhetorical Situation and prompt engineering as powerful lawyering tools.