

Kathleen's Story

— An Illustration of Motivating Arguments and Justifying Arguments *

Many beginners have a harder time developing motivating arguments than they do with justifying arguments. Before starting law school most of us have already had a fair amount of experience justifying our own beliefs. But that is not the same as getting inside another person's head and causing that person to want to do something. To motivate, we need to learn not only a new argument style but also a new process of creating arguments. The process of creating justifying arguments is different from the process of creating motivating arguments.

[In a college course, Kathleen wrote a paper on the] question "Is American Sign language (ASL) a 'foreign language' for purposes of meeting the university's foreign language requirement?" Kathleen had taken two years of ASL at a community college. When she transferred to a four-year college, the chair of the foreign languages department at her new college would not allow her ASL proficiency to count for the foreign language requirement. ASL isn't a "language," the chair said summarily. "It's not equivalent to learning French, German, or Japanese."

Is this really why the department chair rejects Kathleen's request? If yes, Kathleen will be able to change his mind if she can prove that ASL is a real language, equivalent to French, German, or Japanese. But if that isn't really why he refuses, it's only a rationalization for his decision — a statement he can use to justify saying no. If it's only his rationalization, then his motivation — the true cause of the refusal — remains hidden. If he's rationalizing, he might not even be aware of his own motives.

* The block quotes in Kathleen's story are from JOHN D. RAMAGE & JOHN C. BEAN, *WRITING ARGUMENTS: A RHETORIC WITH READINGS* 10-11 (4th ed. 1998).

Kathleen wasn't satisfied with the department chair's decision, and in a different college course she decided to write a paper on this issue.

While doing research, she focused almost entirely on subject matter, searching for what linguists, brain neurologists, cognitive psychologists, and sociologists had said about the language of deaf people. Immersed in her subject matter, she was [not very] concerned with her audience, whom she thought of primarily as her classmates and the professor [who taught the class in which she was writing the paper. They] were friendly to her views and interested in her experiences with the deaf community. She wrote a well-documented paper, citing several scholarly articles, that made a good case to her classmates (and the professor) that ASL was indeed a distinct language.

Proud of the big red A the professor had placed on her paper, Kathleen returned to the chair of the foreign language department with a new request to count ASL for her language requirement. The chair read her paper, congratulated her on her good writing, but said her argument was not persuasive. He disagreed with several of the linguists she cited and with the general definition of "language" that her paper assumed. He then gave her some additional (and to her fuzzy) reasons that the college would not accept ASL as a foreign language.

Kathleen addressed the concerns the department chair had expressed earlier. But rather than reacting sympathetically to her argument, he nitpicks it and offers new reasons that he hadn't mentioned before. Something else — which he hasn't specified — must be motivating him. Because Kathleen hasn't discovered the real cause of his refusal, she made an argument that only challenged his rationalizations instead of one that addressed his true motivations. That is why she has not persuaded him.

This is a common experience when justifying insights are used in an attempt — often unsuccessful — to influence real-world decision-making. The ideas that made sense while researching and sounded wonderful to colleagues are ignored by the person who makes a decision, whether that person is an administrator (as here) or a judge.

It would be easy for Kathleen to dismiss the chair of the foreign language department as a numskull. But for two reasons she cannot and should not do that. First, she can't get around the fact that he has the power of decision. The only way she can get her ASL work to count for the foreign language requirement is to change his mind. For this issue, he's the judge.

Second, he might have sincere and reasonable concerns that deserve to be addressed. At this point, Kathleen doesn't know what they are. Her paper focused on the issue itself, and the only audience she imagined was a friendly one. She avoided thinking about the skeptical audience, even though that audience — the department chair — is the only one who can make

the decision. You might be tempted to forget about the skeptical audience because it's not pleasant when people doubt what you say. But if you want action, you must concentrate on that audience.

How can Kathleen find out what the department chair's concerns might be? How can she address them?

Spurred by what she considered the chair's too-easy dismissal of her argument, Kathleen decided . . . to write a second paper on ASL — but this time aiming it directly at the chair of foreign languages. Now her writing task falls closer to the persuasive end of our continuum. Kathleen once again immersed herself in research, but this time it focused not on subject matter (whether ASL is a distinct language) but on audience. She researched the history of the foreign language requirement at her college and discovered some of the politics behind it (an old foreign language requirement had been dropped in the 1970's and reinstituted in the 1990's, partly — a math professor told her — to boost enrollments in foreign language courses). She also interviewed foreign language teachers to find out what they knew and didn't know about ASL. She discovered that many teachers [inaccurately] thought ASL was “easy to learn,” so that accepting ASL would allow students a Mickey Mouse way to avoid the rigors of a real foreign language class. Additionally, she learned that foreign language teachers valued immersing students in a foreign culture; in fact, the foreign language requirement was part of her college's effort to create a multicultural curriculum.

Now Kathleen begins to understand what's really going on. She has gained insights into what the department chair is worried about, and she can write arguments that really might influence him.

This new understanding of her target audience helped Kathleen totally reconceptualize her argument. She condensed and abridged her original paper She added sections showing the difficulty of learning ASL (to counter her audience's belief that learning ASL was easy), and literature (to show how ASL met the goals of multiculturalism), and showing that the number of transfer students with ASL credits would be negligibly small (to allay fears that accepting ASL would threaten enrollments in language classes). She ended her argument with an appeal to her college's public emphasis (declared boldly in its mission statement) on eradicating social injustice and reaching out to the oppressed. She described the isolation of deaf people in a world where almost no hearing people learn ASL and argued that the deaf community on her campus could be integrated more fully into campus life if more students could “talk” with them [in their own language]. Thus, the ideas included in her new argument, the reasons selected, the

evidence used, the arrangement and tone all were determined by her primary focus on persuasion.

Kathleen's first paper was limited to justifying arguments because it did no more than provide a logical rationale that could support a decision in her favor — if the department chair were inclined to rule as she wanted. It lacked motivating arguments because it did not address the concerns of the department chair.

The second paper was good lawyering because it included both kinds of arguments. She got inside the decision-maker's thinking and showed him that his own values and needs would benefit from doing what she wanted. She kept her justifying arguments in her second paper — because they were needed to justify a decision in her favor — but they receded in importance and were joined by policy arguments with which the department chair could sympathize as well as arguments that addressed genuine practical problems that had made him skeptical.