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Gregory Camilli
Rutgers University

Judith W Wegener
University of North Carolina

Ann Gallagher
Law School Admission Council

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FACULTY PERCEPTION OF TASKS RELEVANT TO ACADEMIC SUCCESS IN THE FIRST YEAR OF LAW SCHOOL: A LONGITUDINAL ANALYSIS

GREGORY CAMILLI^{*}, JUDITH W WEGENER⁺, ANN
GALLAGHER[^]

I INTRODUCTION

Using results from surveys conducted in 2003 and 2018, we examine the perceived importance attributed to a set of specific tasks taught by faculty in required law school courses. Each questionnaire item in the survey corresponded to a task that describes a particular competency, such as critical reading.¹ In this article the results from the two surveys completed by instructors of required law school courses, are analysed. A set of tasks representing competencies that regularly appear as ‘skill’ topics in the legal education literature is evaluated and the implications discussed.²

We have adopted the language of tasks rather than skills, because despite its prevalent use in legal education literature,³ the word ‘skill’ is less helpful in denoting competencies in required courses. Sometimes

^{*} Rutgers University (emeritus), formerly Distinguished Research Scientist, Law School Admission Council

⁺ School of Law (Emerita), University of North Carolina

[^] Research Boundary, Law School Admission Council

¹ Mark Walzer, Kimberly Dustman, Debra Langer, Michael Hegarty, Gregory Camilli, and Ann Gallagher, ‘LSAC Skills Analysis Study: Content Validity of the LSAT’ (Research Report No 1, Law School Admission Council, 2019).

² See Table 4 for a description of the sample. Both surveys included instructors of a wide range of upper-level courses. However, we focused on required courses, the majority of which were taught in the first year. First-year instruction, which is relatively uniform across the universe of law schools, provides the ‘common denominator’ to study trends in the perceived importance of competencies. Treatment of competencies appears in numerous sources including but not limited to accreditation documents, see below n 9; discussions of professional education including law and medicine as collected in Judith Welch Wegner, ‘Contemplating Competence: Three Meditations’ (2016) 50(3) *Valparaiso University Law Review* 675, 691-702; and student assessment articles collected in Judith Welch Wegner, ‘Law School Assessment in the Context of Accreditation: Critical Questions, What We Know and Don’t Know, and What We Should Do Next’ (2018) 67(2) *Journal of Legal Education* 412.

³ For example, consider Steven C Bahls, ‘Adoption of Student Learning Outcomes: Lessons for Change in Legal Education’ (2018) 67(2) *Journal of Legal Education* 376. This article runs 35 pages and mentions the words ‘skill’ or ‘skills’ over 100 times.

‘skill’ is used as a category paired with a simple in/out rule for classifying competencies.⁴ This can be misleading because many such categories are not discrete; instead, they are defined by implicit prototypes requiring a judgment on the degree of resemblance rather than a sharp classification rule.⁵ Also, ‘skill’ has the connotation of an ability that develops over time⁶ or may have a traditional rather than conceptual usage, as in ‘study skills.’⁷ There is a progression of understanding in any discipline of education. At any point along the learning continuum, we can look back to proficiency acquired for particular competencies or look forward to concepts encompassing multiple inter-related competencies.⁸ The word ‘skill’ may also be used to indicate a competency taught in a ‘skills course’ versus a doctrinal course. In short, the term ‘skill’ may provide a useful shorthand for organizing and communicating instructional topics.⁹ However, outside the bounds of its contextual use, this term may carry multiple interpretations.¹⁰ The validity of a skill classification scheme depends

⁴ Linda H Edwards, ‘The Trouble with Categories: What Theory can Teach Us about the Doctrine-Skills Divide’ (2014) 64(2) *Journal of Legal Education* 181; George Lakoff and Mark Johnson, *Metaphors We Live By* (University of Chicago Press, 2003).

⁵ *Ibid* 185.

⁶ Hung-Hsi Wu, ‘Basic Skills Versus Conceptual Understanding – A Bogus Dichotomy in Mathematics Education’, (1999) 23(3) *American Educator* 14, 19, 50–52. There is a developmental progression of skills from the first to the third year of law school and beyond, which renders moot any rigid or fixed frame of reference for identifying skills. Eduardo M Peñalver, ‘The Role of Skills Instruction in Legal Education’ (2018) 13(2) *FIU Law Review* 229. We only claim that our organization of tasks by category is relevant to required first-year classes.

⁷ The category ‘study skills’ can include, but is not limited to, acquiring and retaining information, persistence, organization, time management, effective reading, and note taking. Thus, a practical discussion of the term ‘study skills’ must refer to a particular group of students, setting, and subject matter as well as particular competencies.

⁸ From a psychometric perspective, a term related to skill is ‘construct’, which refers to the cognitive capacity a test is designed to measure. A conceptual map of the construct is required for supporting test score interpretation relative to a proposed use of a test.

⁹ Usage of the word ‘skill’ also overlaps with the idea of a ‘learning outcome’ as specified in ABA Standard 302 ‘A law school shall establish learning outcomes that shall, at a minimum, include competency in the following: (a) Knowledge and understanding of substantive and procedural law; (b) Legal analysis and reasoning, legal research, problem-solving, and written and oral communication in the legal context; (c) Exercise of proper professional and ethical responsibilities to clients and the legal system; and (d) Other professional skills [eg interviewing, counseling, negotiation, fact development and analysis, trial practice, document drafting, conflict resolution, organization and management of legal work, collaboration, cultural competency, and self-evaluation as specified in 302(d)] needed for competent and ethical participation as a member of the legal profession.’ See *ABA Standards and Rules of Procedure for Approval of Law Schools 2020–2021* (2020) <https://www.americanbar.org/groups/legal_education/resources/standards/>.

¹⁰ For example, Cavers wrote that ‘When we speak of the lawyer’s skills, I believe we often have in mind simply the tasks which the lawyer must perform, with little concern for the level of proficiency displayed in their performance... I think there are also many times when the qualitative connotation of ‘skills’ is clearly uppermost, when we are referring not simply to a kind of job that lawyers can and do perform, but rather to the ability to do that kind of job expertly. In other words, we are referring primarily to lawyers’ skillfulness.’ David F Cavers, ‘Skills and Understanding’ (1949) 1(3) *Journal of Legal Education* 395.

on how useful or beneficial the scheme is for a particular purpose and the extent of negative consequences in adopting such a scheme.¹¹

This choice of language is reflected in the surveys conducted in this study, where respondents were asked to rate the importance of ‘tasks,’ where a task is a short, written description of a competency that is well known to legal educators (eg editing or rewriting). Not only is the term ‘task’ less likely to have the myriad unintended connotations of ‘skill’ or ‘learning outcome,’ but its associated competency is also more likely to be behaviourally anchored in instruction and curriculum standards. We asked survey respondents to indicate the importance of each set of tasks for success in required courses.¹²

The significance of identifying the competencies perceived as important by the faculty in such courses, is that it enables us to hypothesise which competencies are becoming more important over time. The tasks comprise those typically taught in the first year of law school, though a few of these may be encountered in required courses in later years.¹³ This information will be useful to law schools in developing formal and informal curricula because some competencies are developed in co-curricular contexts (eg moot court develops advocacy skills) or informal supplemental sessions offered through student affairs initiatives (including topics such as time or stress management). This information may also be important to prelaw counsellors. Periodic surveys can be used to monitor the pace of change in perceptions of the importance of competencies and which specific competencies are generally emphasized in instruction.

Further to this, the current analysis can provide information about what will be expected of students in the first year of law school which may be helpful to admissions professionals for evaluating the potential for student success in terms of academic preparation. For example, courses in logic and digital search procedures are relevant to instruction in research while experiences in argumentation in the form of persuasive essays or debate are relevant to understanding key elements of statutes. At the undergraduate level, this survey information may be helpful to curriculum designers for identifying useful components of prelaw education, or to academic advisors in preparing students for post-graduate legal studies. Moreover, issues of equity in education may be more effectively addressed with empirical knowledge of how to

¹¹ Prototypicality in cognitive psychology has been described as a category system constructed to ‘to provide maximum information with least cognitive effort.’ Eleanor Rosch, ‘Principles of Categorization’ in Eric Margolis and Stephan Laurence (eds) *Concepts: Core Readings* (MIT Press, 1999) 189.

¹² An importance rating indicates the degree to which the task is judged to be important for students in required classes; however, we assume that if an instructor rates a task ‘Highly Important’, a high level of competence would be preferred.

¹³ The relative homogeneity of first-year course content across law schools provides a common basis for both aggregating ratings across individuals and conducting a comparison across the years 2003 and 2018. For a brief discussion of the stability of first-year curricula, see R Michael Cassidy, ‘Reforming the Law School Curriculum From the Top Down’ (2015) 63(4) *Journal of Legal Education* 428. Regarding the stability of the first-year curriculum, see Catherine L Carpenter, *Survey of Law School Curricula: 2002-2010* (Report, 2012).

prepare students who lack academic instruction involving logic or critical thinking. Periodic surveys may also inform ongoing discussions about contemporary digital technology (eg artificial intelligence), how competencies in this area will be integrated with foundational thinking competencies, and where in the legal curriculum students can be effectively introduced to these topics.

These surveys were also designed in part to provide information for content validation of the Law School Admission Test ('LSAT'). A detailed set of instructions is required for writing test items or questions to assess the competencies required for success in first-year law school.¹⁴ Surveys conducted at regular intervals provide broad parameters for identifying and prioritizing competencies and avoiding measurement problems that result from underrepresenting the relevant domain of content. For an admission test, content validity should be an equal partner with predictive validity.¹⁵ In particular, prospective law students should also benefit from the *process* of preparing to take an entrance examination by engaging with material that involves the actual competencies required for success in first-year courses. Fostering lawyerly thinking early in the pipeline is a benefit distinct from the importance of authentic test content for supporting test score interpretations.

The limitations of this study include moderate (but not low) response rate and the focus on perceptions of faculty teaching required courses, mainly in the first year of law school. The survey is also limited to a particular set of competencies that were deemed critical enough to remain constant over the 17-year interval between the two surveys analysed in this study. We do not claim this is a complete list, and indeed, we expect that competencies will regularly be added, modified, or omitted in future studies. Because the structure of legal education varies widely across international contexts, another factor potentially limiting the scope of our findings is that the data are based on perceptions of American law faculty. In response to this criticism, we would argue that issues of foundational competencies in critical thinking are cross-cutting internationally.¹⁶

For example, in 2010 the Australian Learning and Teaching Council ('ALTC') developed minimum discipline-based learning outcomes (known as Threshold Learning Outcomes, or 'TLOs') as part of the development of the Learning and Teaching Academic Standards

¹⁴ The specifications for test development may involve a classification for different types or strands of content, and the format of test items (eg select response or short answers). Content validity can be viewed in terms of the strength of evidence that the test content 1) adequately represents or samples the intended domains of interest, and 2) supports the intended interpretation of test scores. See American Educational Research Association, American Psychological Association, and National Council on Measurement in Education, *Standards for Educational and Psychological Testing* (American Educational Research Association, 2014).

¹⁵ Ibid. Predictive validity is established by providing evidence that test scores adequately predict the criterion of interest (eg first-year Grade Point Average) relative to the purpose of the test (ie as a tool for supporting selection decisions).

¹⁶ See, eg Emma Jones and Fiona Cownie, *Key Directions in Legal Education: National and International Perspectives* (Routledge, 2021).

(‘LTAS’). In the field of law, TLOs were developed for the Bachelor of Laws degree (‘LLB’) in 2010, and for the post-graduate Juris Doctor (‘JD’) in 2012.¹⁷ The TLOs represent what a graduate is expected to ‘know, understand and be able to do as a result of learning,’ or alternatively, as the minimum disciplinary knowledge, discipline-specific skills, and capabilities expected from graduates in a particular discipline of law.¹⁸ For both the LLB and JD degrees, TLOs consisted of the general categories: 1) Knowledge; 2) Ethics and Professional Responsibility; 3) Thinking Skills; 4) Research Skills; 5) Communication and Collaboration; and 6) Self-Management. This information is shown in Table 1 along with a correspondence analysis between the JD TLO categories and the competency categories used in the 2003/2018 skills surveys (or LSAC categories, for short).¹⁹ As can be seen, there is a moderate degree of correspondence between subdomains within TLOs and LSAC categories used to design the skill surveys. This means that findings from our surveys conducted in the US may be useful to Australian (and other) legal education systems.

The apparent mismatch between these two classifications can be understood in three ways. First, the LSAC categories comprise sets of discrete competencies, while the TLO subdomains refer to broader skills. As noted above, proficiency in particular competencies may evolve toward concepts that integrate multiple inter-related competencies. It is arguable that a TLO subdomain establishes a location along the competency-skill continuum at which minimum expectations are satisfied for a developed ability. Second, some LSAC categories are broad (ie Normative Thinking), but others correspond in granularity to TLO subdomains (ie LSAC ‘Reasoning’ roughly corresponds to the Thinking Skill ‘Apply Reasoning and Research’). Third, some differences are resolved by examining the JD TLO Explanatory Statement relative to the full set LSAC competencies within a category.²⁰ For example, in the JD Explanatory Statement ‘[c]reative thinking requires a capacity to think laterally and engage in transferable problem-solving. It includes an understanding of inductive and deductive reasoning,’²¹ while in the LSAC Reasoning category, deductive and inductive reasoning are denoted as competencies. In general, the LSAC survey contributes a more granular perspective than TLOs to discussions of instruction and skills. In this sense, a longitudinal survey of competencies can complement application of the

¹⁷ The JD TLOs were obtained from the report by Andrew Kenyon, *Juris Doctor Threshold Learning Outcomes* (Report, 2012) <<https://cald.asn.au/wp-content/uploads/2017/11/JD-TLOs-March-2012-Andrew-Kenyon11.pdf>>; the LLB TLOs are available in Sally Kift, Mark Israel, and Rachael Field, *Bachelor of Laws: Learning and Teaching Academic Standards Statement (LTAS): December 2010* (Statement, Australian Learning and Teaching Council, 2011).

¹⁸ LTAS, n 17.

¹⁹ These categories were derived from American Bar Association, *Report of The Task Force on Law Schools and the Profession: Narrowing the Gap* (July 1992), below n 26 (the ‘MacCrate Report’). They are also given in Table 2 below. Note that the TLOs and LSAC competency categories have been compressed for presentation.

²⁰ Walzer, above n 1.

²¹ See above n 17, 12.

TLOs, especially in terms of which competencies are evolving in perceived importance over time. Indeed, we would argue that parsing and explicating different aspects of the word ‘skill’ enables more fruitful discussion of instruction as well as standards.

Table 1.
Correspondence of JD TLOs and LSAC categories

TLO	JD Notes	LSAC Categories
Knowledge	<ul style="list-style-type: none"> • Fundamental areas of legal knowledge • Broader context in which legal issues arise • Principles & values of justice and ethics • Contemporary developments in law 	
Ethics & Professional Responsibility	<ul style="list-style-type: none"> • Understand approaches to ethical decision making • Recognise, reflect upon, & respond to ethical issues • Recognise & reflect upon professional responsibilities of lawyers • Exercise professional judgement 	<ul style="list-style-type: none"> • Normative thinking • Distinguishing ethical/nonethical issues • Reason with ethical principles • Compare ethical/policy issues
Thinking Skills	<ul style="list-style-type: none"> • Identify & articulate complex legal issues • Apply legal reasoning & research • Engage in critical analysis • Demonstrate cognitive & creative skills 	<ul style="list-style-type: none"> • Analysing legal problems & cases • Constructing arguments • Reasoning
Research Skills	<ul style="list-style-type: none"> • Demonstrate intellectual & practical skills needed to justify: • Theoretical propositions • Legal methodologies • Conclusions & professional decisions • Identify, research, evaluate, and synthesise 	<ul style="list-style-type: none"> • Conducting research • Organising & synthesising • Using software & digital devices • Quantitative reasoning • Reading
Collaboration & Communication	<ul style="list-style-type: none"> • Effective, appropriate & persuasive communication for legal and nonlegal audiences • Collaborate effectively 	<ul style="list-style-type: none"> • Writing • Communicating orally • Listening • Interpersonal & group work
Self-Management	<ul style="list-style-type: none"> • Learn & work with a high level of autonomy, accountability, & professionalism • Personal and professional development. 	<ul style="list-style-type: none"> • Work habits & study skills • Identify academic goals/priorities • Allocate time • Self-monitor progress

The LSAC categories are discussed in more detail below. Here, the purpose is to show that the interest in competencies that are essential to legal education cuts across different legal education systems. Once identified, however, an ensuing issue is how skills instruction can be integrated into a legal education program.²² The contribution of this paper is to start with the LSAC categories, but then to drill deeper into particular competencies of interest. For example, the skill of informational literacy is extremely broad. It can be narrowed to the search and retrieval of information from online legal data bases. One concrete competency of interest can then be defined as the ability to use a particular service such as the search supports offered by LexisNexis. While the broad categories provide a useful overview of important skills, the concrete instances, such as those examined in this paper, help to complete the picture for both instructional content and curriculum design.

Information about competencies perceived to be important for success in the first year of study is also likely to be of high interest to students (and their advisors) planning to apply to US law schools. In 2018-2021 about 20,000 noncitizen applicants, and on average, 19 countries had at least 40 matriculants annually.²³ The total number of matriculants from these countries alone was equivalent in size to about 6.7% of US matriculants. For example, a number of reports both in the US and Australia note the importance of critical thinking and reasoning. Yet there are distinct types of reasoning processes, including logical and deductive reasoning, and understanding statutory law. This paper provides coverage of finer-grain skills or competencies that may help to inform preparation for legal study or course design.

II METHODOLOGY

After providing methodological details and basic demographic statistics for respondents in 2003 and 2018, we focus empirically on the tasks that instructors of first-year courses perceive as critical for success. We first report the 13 tasks in 2018 with the highest importance ratings (at least 3.75 on a 4-point scale). Then, given that 46 tasks were common to both survey years, we report the tasks with the largest shifts in importance. Finally, we organize the 46 common items into categories and examine shifts in average importance ratings within a category, which enables broader generalizations about longitudinal change in categories of related tasks. In this sense, we attempt to

²² See Sharon Christensen and Sally Kift, 'Graduate Attributes and Legal Skills: Integration or Disintegration?' (2000) 11(2) *Legal Education Review*, Article 3. These authors provide further elaboration of skill categories; Adam Webster, Bernadette Richards, Melissa de Zwart, Alexander Reilly, and Suzanne Le Mire, 'Enhancing the First Year Curriculum and Experience: Law School 'Boot Camp' (2018) 28(1) *Legal Education Review*, 1.

²³ Law School Admission Council, *Admission Trends: Country of Citizenship for ABA Applicants, Admitted Applicants & Matriculants (All Term), Top Countries* (Report, 2021)
<<https://report.lsac.org/View.aspx?Report=AdmissionTrendsApplicantsAdmitApps&Format=PDF>>.

generalize beyond particular competencies across sets of positively correlated responses to tasks. These results provide information about the changing priorities of legal education and perhaps legal practice. These results may also give relevant information for identifying or revising the balance of competencies addressed in existing legal curricula.

A 2003 Survey Instrument

Development of the 2003 survey²⁴ was initially based on three sources: the 1952 Association of American Law Schools ('AALS') *Statement of Association Policy on Pre-legal Education*;²⁵ the 1992 American Bar Association ('ABA') report 'Legal Education and Professional Development—An Educational Continuum' (popularly known as the '*MacCrate Report*');²⁶ and the 1996 ABA report 'Preparation for Legal Education'.²⁷ A second source of tasks law students must perform to succeed in their courses was provided by an informal survey of 15 faculty who had studied legal education. Focus groups were then held with faculty and students at three law schools in the Philadelphia area to evaluate and complete the set of tasks. The final survey listed 57 tasks across the 14 categories shown in Table 2. These categories were derived by 1) a combination of the information from the 'skill' groupings found in the AALS statement, the *MacCrate Report*, and the 'Preparation for Legal Education' report; 2) a grouping exercise conducted with faculty focus groups based on the perceived similarity of tasks; and 3) categories developed by Law School Admission Council ('LSAC') staff. These three independent groupings showed a high degree of similarity, and a subsequent statistical cluster analysis provided additional validation.²⁸ The survey was then constructed from these 57 tasks organized into 14 categories. Respondents were directed to rate the individual tasks on a 4-point response scale: Highly Important (4), Moderately Important (3), Somewhat Important (2), or Not Important/Not Applicable (1).

²⁴ Stephen W Luebke, Kimberly A Swygert, Lori D McLeod, Susan P Dalessandro, and Louis A. Roussos, *Final Report: LSAC Skills Analysis. Law School Task Survey*, (Final Report, May 2003).

²⁵ Association of American Law Schools Committee on Pre-legal Education, 'Appendix to Report of Committee on Pre-Legal Education: Statement of Association Policy on Pre-Legal Education Proposed by the Committee' (1952) *Proceedings of the Annual Meeting of the Association* 106–114.

²⁶ The McCrate Report above n 19.

²⁷ American Bar Association Section of Legal Education and Admissions to the Bar, 'Preparing for Law School' (Web Page, 1996) <http://www.americanbar.org/groups/legal_education/resources/pre_law/>.

²⁸ A variety of hierarchical cluster analyses confirmed the similarity of the ABA categories and those implemented for the 2003 survey. See above n 14, 3. Cluster analysis is a quantitative technique for sorting items into groups having similar profiles across a number of variables. See Brian S Everitt, *Cluster Analysis* (Wiley, 5th ed, 2011). In this case, the clusters constituted groups of importance ratings that were perceived as similar by survey respondents.

Table 2.
Category Structure for 2003 Survey

1. Analysing Legal Problems and Cases	8. Quantitative Reasoning
2. Communicating Orally	9. Reading
3. Conducting Research	10. Reasoning
4. Constructing Arguments	11. Using Software and Digital Devices
5. Listening	12. Work Habits and Study Skills
6. Normative Thinking	13. Interpersonal and Group Work
7. Organizing and Synthesizing	14. Writing

All LSAC member schools were invited to participate in the 2003 survey. Each participating school determined a procedure for distributing the paper surveys. Faculty respondents were first asked to indicate a single lower or upper-level course that they taught and then asked to rate the importance of survey tasks for that particular course. A total of $n = 458$ usable responses were received, representing 41 law schools, of which 310 responses were specific to first-year ('1L') courses.²⁹

B 2018 Survey Instrument

The format of the 2018 survey instrument was developed using the 2003 survey as a template.³⁰ The category structure in Table 2 remained constant, as did the 4-point response scale. The task list from the 2003 survey was then reviewed and updated. New tasks related to technology use and quantitative reasoning were added. Additionally, several of the 57 task descriptions from 2003 were edited for clarity. The draft list of tasks was then reviewed and revised based on feedback from an advisory group of law faculty experienced in legal education pedagogy, curricular reform, academic support, and bar preparation. The resulting survey consisted of 70 task descriptions organized into the same 14 categories displayed in Table 2.

In 2018, survey invitations were emailed to deans of academic affairs at LSAC member law schools and deans in the United States. Deans were asked to forward an anonymous link for the online survey to law school faculty who taught required courses (both first-year and upper-level). Respondents were asked to provide the names of the required courses they taught and to indicate whether their courses were 1L, upper-level, or both. A total of $n = 489$ usable responses were received, representing 87 law schools. Of these, $n = 419$ responses were

²⁹ The sample of law schools was highly representative of all LSAC member law schools in terms of geography, size, and average LSAT score. These schools are identified in Walzer, above n 1, Table 3.

³⁰ Ibid.

received for respondents who taught at least one first-year course, and these respondents constituted the 2018 sample used in this study.

C Regression Adjustment

The 2003 and 2018 surveys were distributed differently, thus having implications for data analysis. Respondents in 2003 were asked to provide importance ratings for one designated course. If this was a standard first-year course, the survey was included in the 2003 data file. In 2018, surveys were distributed to faculty who may have taught more than one required first-year course, but faculty were not asked to target task ratings to a particular course.³¹ All surveys in which respondents indicated teaching at least one standard first-year course were included in the 2018 data file. First year courses included Contracts (BCON), Criminal Law (CRIM), Property (PROP), Legal Writing and Research (LWRS), Torts (TORT), Constitutional Law (LCON), and Civil Procedure (CIVP).

To adjust for this complexity, we created a set of seven indicator variables for each respondent: Each indicator was set to ‘1’ if the faculty taught that course or ‘0’ otherwise. For 2003, only one of the seven indicators was set to ‘1’; for 2018, more than one indicator could be set to ‘1’. The following regression model was then estimated after combining the 2003 and 2018 data files:

$$\hat{Y} = b_0 + b_1YEAR + b_2BCON + b_3CRIM + b_4PROP + b_5TORT \\ + b_6LCON + b_7CIVP$$

where \hat{Y} is the predicted response to a particular survey task, and b_0 through b_7 are regression coefficients (slope and intercepts). Because the indicator for Legal Writing and Research (LWRS) is omitted, the intercept b_0 represents the adjusted mean for this variable. The adjusted rating for a course in 2018, say Civil Procedure, is then obtained as

$$\hat{Y} = b_0 + b_1 + b_7.$$

This method takes into account that a number of faculty in 2018 may have taught more than one course, for instance, suppose some faculty taught both Civil Procedure and Contracts. The regression analysis sorts what is uniquely attributable to Civil Procedure into b_7 , and what is uniquely attributable to Contracts into b_2 . This avoids the confounding of courses that occurs in simple course averages in which a number of

³¹ Ibid 4.

faculty may be double or triple counted.³² If all faculty had indicated only one class, the adjusted and observed averages would be identical.³³

III SAMPLE DEMOGRAPHICS

Demographic information was collected in both the 2003 and 2018 surveys for race, ethnicity, and gender. In Table 3, results are given for race and ethnicity. It can be seen that in both samples, respondents were primarily white.

³² Regression slopes are commonly interpreted as the unique effect of a predictor, which is useful for sorting out effects in the presence of correlated predictors. Leaving out one dummy indicator is a standard procedure required for model identification. See Melissa A Hardy, *Regression with Dummy Variables* (Sage Publications, 1993); Because LWRS was omitted from this equation, the intercept b_0 is the adjusted rating for LWRS faculty, and the coefficient b_1 is the adjusted change in rating for the task from 2003 to 2018 (YEAR was an indicator variable designed as '0' in 2003 and '1' in 2018). The remaining regression coefficients b_2 through b_7 represent the unique effects of BCON through CIVP. We report the adjusted rating for different course types for 2018 by plugging a string of indicator variables into the equation. For example, to obtain the average rating of Contracts faculty in 2018, YEAR = 1 and BCON = 1; the remaining indicators are set to '0'. To obtain an overall 2018 importance rating for a task, the average adjusted rating across courses was computed. To explore for potential gender effects, a preliminary set of regression analyses was run, including an indicator variable for sex (female = '1' and male = '0'). The corresponding coefficients for sex were found to be uniformly small across tasks, implying that course effects were not confounded with gender effects. Consequently, this predictor was omitted from the regression modeling.

³³ Because LWRS was omitted from this equation, the intercept b_0 is the adjusted rating for LWRS faculty, and the coefficient b_1 is the adjusted change in rating for the task from 2003 to 2018 (YEAR was an indicator variable designed as '0' in 2003 and '1' in 2018). The remaining regression coefficients b_2 through b_7 represent the unique effects of BCON through CIVP. We report the adjusted rating for different course types for 2018 by plugging a string of indicator variables into the equation. For example, to obtain the average rating of Contracts faculty in 2018, YEAR = 1 and BCON = 1; the remaining indicators are set to '0'. To obtain an overall 2018 importance rating for a task, the average adjusted rating across courses was computed. To explore for potential gender effects, a preliminary set of regression analyses was run, including an indicator variable for sex (female = '1' and male = '0'). The corresponding coefficients for sex were found to be uniformly small across tasks, implying that course effects were not confounded with gender effects. Consequently, this predictor was omitted from the regression modeling.

Table 3.
Respondent Race and Ethnicity

Race & Ethnicity ^a	2003 (%) ^b	2018 (%) ^b
Asian	2	4
Black	4	6
White	80	75
Hispanic	2	3
Other	2	1
Not indicated	11	12
<i>n</i>	310	419

^a Asian = Asian, Asian American, or Pacific Islander; Black = Black, African American; White = White, Caucasian; Hispanic = Latino(a)/Chicano(a), Puerto Rican, Other Hispanic; ^b Due to rounding, percentages may not add to 100.

In Table 4, results are given for gender. In 2003, most respondents were male, whereas in 2018 gender was more balanced. In the most currently available data from the ABA, the category of ‘Teaching Resources’ (ie teaching faculty) is subdivided into ‘Full-Time Skills,’ ‘Full-Time Writing,’ ‘Other Full Time,’ and ‘Part Time’.³⁴ Full-time skills and full-time writing faculty were 65% female and 73% female, respectively. However, these statistics should be interpreted cautiously. While ABA Standard 405 distinguishes between ‘Clinical’ and ‘Legal Writing’ faculty,³⁵ others group these two categories into a ‘skills’ super-category to highlight a distinction between skills faculty and doctrinal faculty.³⁶ This tends to create a hierarchy in contract security that discriminates ‘against skills-focused faculty, particularly those who specialize in legal writing—most of whom are women.’³⁷

³⁴ American Bar Association, ‘Statistics Archives, Law School Faculty & Staff by Ethnicity and Gender’ (Excel Spreadsheet, 2013) <https://www.americanbar.org/groups/legal_education/resources/statistics/statistics-archives/>.

³⁵ Section of Legal Education and Admissions to the Bar, *ABA Standards and Rules of Procedure for Approval of Law Schools, 2018–2019* (ABA Publishing, 2018), Standard 405 <https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/Standards/2018-2019ABAStandardsforApprovalofLawSchools/2018-2019-aba-standards-rules-approval-law-schools-final.pdf>.

³⁶ Lyn J Entrikin, Lucy Jewel, Susie Salmon, Craig T Smith, Kristen K Tiscione, and Melissa H Weresh, ‘Treating Professionals Professionally: Requiring Security of Position for All Skills-Focused Faculty Under ABA Accreditation Standard 405(c) and Eliminating 405(d)’ (2020) 98(1) *Oregon Law Review* 1.

³⁷ *Ibid* 3–4.

Table 4.
Respondent Gender

<i>Gender</i>	<i>Percentage</i>	
	<i>2003</i>	<i>2018</i>
Male	59	44
Female	34	47
Not indicated	7	9
<i>n</i>	310	419

The percentage of faculty teaching common 1L courses is given in Table 5. Course representation is about the same for the two samples. However, the Legal Writing and Research (LWRS) category shows an increase of about nine percentage points in 2018, and three categories show decreases: Criminal Law (−3%), Property (−4%), and Constitutional Law (−4%).³⁸ The gender shift was larger for respondents who taught LWRS courses. In 2003, 20% of female respondents taught at least one LWRS course compared to 16% of males. In 2018, 38% of female respondents taught at least one LWRS course compared to 18% of males. This latter shift may reflect a change in workforce composition but also may reflect a higher response rate in 2018 for LWRS faculty.

Table 5.
Course Representation in the 2003 and 2018 Samples

Course	Variable Name	2003 (%)	2018 (%)
Contracts	BCON	14	15
Criminal Law	CRIM	14	11
Property	PROP	15	11
Legal Writing and Research	LWRS	18	27
Torts	TORT	14	12
Constitutional Law	LCON	14	10
Civil Procedure	CIVP	15	13
<i>n</i>		310	419

³⁸ Because LWRS faculty often teach in much smaller classes, capped at maybe 20 or fewer per section, there are typically many more in any given law school, in comparison to tenure-track faculty teaching the same number of students. See Catherine L Carpenter, *Survey of Law School Curricula: 2002-2010* (Report, 2012) <https://www.americanbar.org/content/dam/aba/publications/misc/legal_education/2012_survey_of_law_school_curricula_2002_2010_executive_summary.authcheckdam.pdf>.

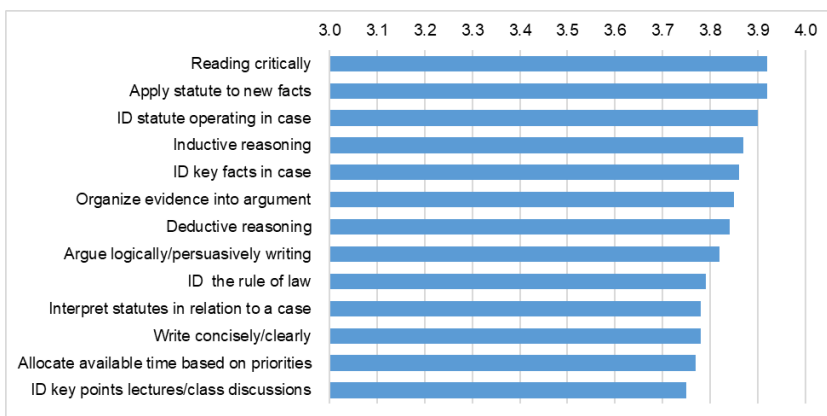
IV RESULTS

A total of 46 tasks appeared on both the 2003 and 2018 surveys, and this set of tasks was the focus of the current study.³⁹ In this section, the 13 highest-rated tasks are identified using the overall rating across courses, and then subgroup differences are examined. In the following section, the tasks showing the largest changes in importance ratings between 2003 and 2018 are identified. Finally, an analysis of change at the task category level is given to permit a higher-level generalisation of change over and above the task level. Below, tasks written in italics indicate their verbatim inclusion in the surveys.

A 2018 Most Important Tasks

From the 46 items common to the 2003 and 2018 surveys, we identified the set of 13 tasks rated at least 3.75 on a scale of 1–4. All of these tasks were indicated as ‘highly important’ by at least 75% of respondents. As shown in Figure 1, the 13 tasks meeting these criteria in the 2018 survey described reading, writing, and reasoning competencies such as ‘reading critically’, ‘applying a statute to new facts’, ‘identifying the statute operating in a case’, and ‘inductive reasoning’. Logistic competencies are also represented in tasks such as ‘allocating time based on priorities’ and ‘identifying key points in lectures.’ Because the LWRs faculty represented the largest subgroup in both 2003 and 2018, results for this group are noted below when they vary from the overall average.

Figure 1.
Tasks with adjusted 2018 ratings > 3.75 on a scale of 1–4



The tasks least likely to be rated highly in 2018 concerned quantitative competencies, using software and digital devices, and knowledge of social media and graphical representations. All of these tasks received a rating of about 2 (Somewhat Important) or lower.

³⁹ Outcomes for the full set of tasks is given in Walzer, above n 1.

Quantitative competencies may become more relevant as a student progresses through law school, for example, in more specialized courses such as tax or financial law. Other tasks rated as having lower importance included ‘comparing ethical or public policy issues’ (2.91), ‘using the law library and legal references’ (2.89), ‘contributing to a group assignment or discussion’ (2.89), ‘reading large amounts’ (2.86), and ‘assessing theories unifying diverse areas of law’ (2.80). The task ‘using electronic databases such as LexisNexis and Westlaw’ (3.20) received a higher importance rating than using the law library.

Respondents were also asked to add tasks that did not figure in the questionnaire. Three areas were identified by at least 5% of respondents, including such categories as personal qualities (7%), professional responsibility (6%), and responsibility for learning (5%). These latter competencies appear to signify that noncognitive factors related to social-emotional learning are increasingly recognized as important by law school faculty. A number of studies have examined this topic,⁴⁰ yet there are no generally agreed upon methods to date for assessment or instruction.⁴¹

B 2018 Subgroup Analysis

Responses were compared from faculty subgroups based on gender, tenure status, and course for the 13 most highly rated tasks. Sample sizes for most race and ethnicity categories were too small to allow for comparisons. The results were highly similar across gender categories (Male, Female, Prefer not to respond). For tenure status (available only in 2018), the results were similar across categories (Not tenured, Tenure track, Tenured). Ten tasks received the highest predicted importance ratings (or were tied for the highest) for LWRS faculty. It is unsurprising that these tasks included ‘editing or rewriting’, ‘organizing evidence into an argument’, ‘writing clearly and concisely’, ‘inductive reasoning’, and ‘arguing logically and persuasively in writing’. Also, seven tasks had clearly higher variability across all course categories. The tasks ‘using electronic databases such as LexisNexis and Westlaw’ and ‘using the law library and legal references’ were rated the highest by LWRS faculty and lowest by Property faculty. The tasks ‘editing or rewriting’, ‘using proper grammar, spelling, and citations’, and ‘listing or describing facts in writing’ were rated the highest by LWRS faculty and lowest by Constitutional law faculty. Finally, LWRS faculty rated two tasks the lowest: ‘writing answers to exam questions’ (rated highest by Torts) and ‘outlining a course for final exams’ (rated highest by Property).

⁴⁰ The most nationally known example of studies relating to the importance of character is Alli Girkman and Logan Cornett, *Foundations for Practice: The Whole Lawyer and the Character Quotient* (Report, July 26, 2016) <<https://iaals.du.edu/publications/foundations-practice-whole-lawyer-and-character-quotient>>.

⁴¹ Kristen Holmquist, Marjorie Shultz, Sheldon Zedeck, David Oppenheimer, ‘Measuring Merit: The Shultz-Zedeck Research on Law School Admissions’ (2014) 63(4) *Journal of Legal Education* 565.

Table 6.
Highest and Lowest Adjusted Ratings by Course Across 13 Tasks

Course	Highest-Rated Tasks	Lowest-Rated Tasks	Average Rating
Civil Procedure	<ul style="list-style-type: none"> • Reading critically • ID statute operating in case • Applying a statute to new facts 	<ul style="list-style-type: none"> • Comparing ethical/public policy issues • Reading large amounts • Assess theories unifying diverse areas of law 	3.40
Contracts	<ul style="list-style-type: none"> • Reading critically • Applying a statute to new facts • Deductive reasoning 	<ul style="list-style-type: none"> • Contribute to group assign or discussion • Using the law library and legal references • Reading large amounts 	3.46
Constitutional Law	<ul style="list-style-type: none"> • Reading critically • Organizing evidence into argument • Inductive reasoning 	<ul style="list-style-type: none"> • Reading large amounts • Assess theories unifying diverse areas of law • Listing or describing facts in writing 	3.35
Criminal Law	<ul style="list-style-type: none"> • Applying a statute to new facts • ID statute operating in case • Inductive reasoning 	<ul style="list-style-type: none"> • Contribute to group assign or discussion • Using the law library and legal references • Reading large amounts 	3.43
Property	<ul style="list-style-type: none"> • Reading critically • Applying a statute to new facts • ID statute operating in case 	<ul style="list-style-type: none"> • Assess theories unifying diverse areas of law • Contribute to group assign or discussion • Using the law library and legal references 	3.43
LWRS	<ul style="list-style-type: none"> • Editing or rewriting • Applying a statute to new facts • Writing concisely and clearly 	<ul style="list-style-type: none"> • Answer unassigned hypotheticals in class • Comparing ethical/public policy issues • Assess theories unifying diverse areas of law 	3.51
Torts	<ul style="list-style-type: none"> • Reading critically • Applying a statute to new facts • ID key facts in a case 	<ul style="list-style-type: none"> • Assess theories unifying diverse areas law • Contribute to group assign or discussion • Using the law library and legal references 	3.47

In Table 6, the three highest and lowest adjusted ratings are given for each course category. It can be seen that there is substantial agreement across tasks. Reading critically and identifying and applying statutes are broadly held to be important. Inductive reasoning was identified as a high priority by both Constitutional Law and Criminal Law faculty, and deductive reasoning was identified by Contracts

faculty.⁴² ‘Editing or rewriting’ and ‘writing concisely and clearly’ were top priorities for LWRS faculty. ‘Assessing theories unifying diverse areas of law’ and ‘reading large amounts’ were generally held as low priorities, as were ‘using the law library and legal references’ and ‘contributing to group assignment or discussion.’ The latter competency had minimal relevance in large first-year lecture courses. Moreover, public policy issues and unifying theories of law are most likely to be taught and valued more highly in upper-level courses. In the last column of Table 6, it can be seen that the overall rating of tasks tended to be similar, with the LWRS faculty having the highest predicted importance ratings. We caution that these differences among faculty indicate differential tendencies, not stark differences. Still, the distinctions in Table 5 are highly interpretable.

C Longitudinal Changes in Task Importance

Based on the similarities given in Tables 3–5, the 2003 and 2018 respondent samples were sufficiently comparable to make longitudinal comparisons. As we shall see, the pattern of results is consistent and interpretable. This analysis focuses on the 46 tasks common to the 2003 and 2018 surveys. For each task, we obtained the average difference in importance ratings (labelled D). We first present results for the 41 nonquantitative tasks. Table 7 shows 17 tasks that had an absolute difference of at least $D = 0.15$ point on a 4-point scale.⁴³ These 14 tasks are ranked from the largest to the smallest changes on D in 2018 relative to the baseline year 2003.⁴⁴ Positive values of D indicate gains in importance in 2018, and negative values indicate losses. The average mean difference for all 41 nonquantitative tasks was positive ($\bar{D} = 0.16$ on a 4-point scale), suggesting that law school faculty teaching 1L classes consider the competencies appearing on the 2018 survey to be slightly more important than they did in the past.

⁴² Inductive reasoning is a type of logical reasoning competency that involves examining, analyzing, and critically evaluating arguments. The goal is to reason from a set of premises and a set of facts to a general truth, that is, from specific information to general principles. As opposed to deductive reasoning, the conclusion of an inductive argument is more or less likely rather than certain. These arguments are mirrored in the complexity of legal reasoning. Inductive reasoning is more prevalent in common law than in statutory law. In a deductive argument, if the premises are true and the deductive reasoning is valid, then it follows that the conclusion must be true. These competencies involve determining what could or must be true given a set of facts and rules (or constraints). Beginning with a set of premises, the goal is to determine the certain truth of an argument, or what must be true. In law, these competencies closely model those involved in determining what could or must be the case given a set of regulations, the terms of a contract, or the facts of a legal case in relation to a statute.

⁴³ Most of these regression estimates were statistically significant at $\alpha = .001$ (using a standard t statistic for b_1), and all were significant at $\alpha = .05$. This indicates that values of D this large are extremely unlikely to arise from sampling error.

⁴⁴ Formally, this index was calculated as the difference in average ratings from 2003 to 2018, where the difference index $D = \bar{X}_{2018} - \bar{X}_{2003}$. Lower values of D indicate relatively less emphasis in 2018, and higher values of D indicate relatively more emphasis.

As can be seen in Table 7, the tasks with the largest gains from 2003 to 2018 involve research, reading, and writing. Additionally, time management and identifying priorities also fall into this group of tasks showing the largest positive changes.

Table 7.
Difference Indices for Survey Years 2003 and 2018

Task Label	2018 Rating	<i>D</i>	Category
Using electronic databases such as LexisNexis/ Westlaw	3.18	1.23 ^a	Conducting Research
Editing or rewriting	3.47	1.21 ^a	Writing
Contributing to a group assignment or discussion	2.88	0.82 ^a	Group Work
Using the law library and legal references	2.87	0.76 ^a	Conducting Research
Reading large amounts	2.85	0.47 ^a	Reading
Allocating available time based on priorities	3.77	0.44 ^a	Work Habits/Study Skills
Using proper grammar, spelling, and citations	3.22	0.32 ^a	Writing
Identifying academic goals/priorities	3.54	0.28 ^a	Work Habits
Writing answers to exam questions	3.53	0.22 ^a	Writing
Reading critically	3.93	0.21 ^a	Reading
Writing concisely and clearly	3.78	0.21 ^a	Writing
Outlining a course for final exams	3.28	0.17 ^c	Org. & Synthesizing
Inductive reasoning	3.75	0.15 ^a	Reasoning
Identifying the key points in lectures and class discussions	3.24	0.15 ^c	Listening
Distinguishing between what a person has and has not said	3.00	-0.17 ^b	Listening
Assessing theories unifying diverse areas of law	3.14	-0.25 ^a	Org. & Synthesizing
Comparing ethical/public policy issues	2.80	-0.29 ^a	Normative Thinking

^a $p < 0.001$; ^b $p < 0.01$; ^c $p < 0.05$

The three tasks that gained the most were ‘using electronic databases such as LexisNexis and Westlaw,’ ‘auditing or rewriting,’ and ‘Contributing to a group assignment or discussion.’ These three tasks are interrelated and receive heavy emphasis in LWRS courses, which introduce core tools and methodologies essential for continued study and future law practice. The three tasks with the largest losses

appear at the bottom of Table 7. These include ‘distinguishing between what a person has and has not said’, ‘assessing theories unifying diverse areas of law,’ and ‘comparing ethical/public policy issues’. This pattern of losses may indicate these tasks are less relevant to first-year courses compared to upper-level courses.

Two tasks were of special interest: ‘using the law library and legal references,’ and ‘Using electronic databases such as LexisNexis and Westlaw.’ We examined the distributions of responses across all respondents and for LWRS respondents separately. As shown in Table 8, these tasks had bimodal distributions across importance ratings in 2003 for all respondents but not for LWRS faculty, who tended to rate these competencies as more important.⁴⁵ In 2018, strong increases in importance ratings were evident, and shifts of about the same magnitude were observed for all faculty and LWRS faculty. Because research provides the content for legal writing and analysis, it is not surprising that LWRS faculty tend to rate these competencies more highly. Overall, the importance rating of LWRS competencies reflects the growing importance of legal research technology and the movement of available resources for many law libraries away from print collections to online subscriptions.

Table 8.
Longitudinal Change for Select Research Tasks

Task Importance*	Using Law Library/Legal References				Using Electronic Databases			
	2003 (%)		2018 (%)		2003 (%)		2018 (%)	
	All	LWRS	All	LWRS	All	LWRS	All	LWRS
4	23	33	33	51	19	49	48	73
3	14	32	32	25	12	37	26	23
2	20	23	23	14	18	11	15	4
1	44	11	11	9	51	2	11	0

* 4 = Highly Important, 3 = Moderately Important, 2 = Somewhat Important, 1 = Not Important/Not Applicable.

Results for quantitative competencies are given in Table 9. In comparing *D* statistics to those in Table 7, it can be seen that there are relatively large gains. However, the gains took place relative to low baselines in 2003, ranging from 1.36 to 1.58 on a 4-point scale. The five quantitative tasks included: making calculations, comparing quantities, interpreting and applying formulas, interpreting statistics, and interpreting basic graphical representations. Because these are relatively common quantitative competencies, it is not clear whether these tasks are considered unimportant for first-year courses, or if a basic level of expertise could be assumed for students matriculating into

⁴⁵ The bimodality is notable for all faculty in 2003 for ‘Using Law Library/Legal References,’ with modes at scale points 1 and 4. The corresponding bimodality for ‘Using Electronic Databases’ is similar in 2003, with modes and scale points 1 and 4. There is no corresponding distributional effect in 2018.

law school—or even whether these competencies would be taught in upper-level courses as needed.⁴⁶ As a category of highly similar tasks, quantitative competency as a whole has increased in perceived importance, though the overall importance rating remains low. There is no guarantee, however, that this trend will continue to be observed in future surveys.

Table 9.
Difference Indices for Quantitative Tasks for Survey Years 2003 and 2018

Short-Item Label	2018 Rating	<i>D</i>
Interpreting statistics	1.98	0.59
Interpreting basic graphs	2.09	0.72
Making calculations	1.84	0.37
Comparing quantities	1.84	0.38
Interpreting and applying formulas	1.78	0.20

D Longitudinal Changes in Importance for Task Categories

In the 2003 and 2018 surveys, tasks were clustered into 14 categories. There were six categories that contained at least four tasks common to both surveys. These categories were: Reasoning (4 tasks), Constructing Arguments (4 tasks), Analysing Legal Problems and Cases (7 tasks), Writing (9 tasks), Listening (4 tasks), and Quantitative (5 tasks). The Listening label refers to tasks involving oral comprehension and other reasoning tasks in the context of oral language, such as identifying what is implicit in what a person has said or distinguishing what a person has and has not said. Such tasks are characterized by effective functioning in face-to-face venues or oral interactions. In this regard, many schools currently pay much more attention to diversity, cross-cultural awareness, and anti-racism, which may impact future understandings and emphases for listening competencies. We further subdivided the ‘Writing’ category into two subcategories. Four writing tasks were related to the instrumental use of writing (eg Writing class notes and Listing or describing facts in writing), and four writing tasks involved more general writing competencies (eg Writing clearly and concisely and Arguing logically and persuasively in writing) for professional communication. The task of Editing or rewriting was omitted from the analysis due to the potentially biasing effect of its particularly large shift. For each of these seven categories, we found a positive intercorrelation among tasks and subsequently calculated average importance ratings for each year as well as the shift from 2003 to 2018. These results are given in Table 10.

⁴⁶ With limited time for instruction and greater attention to bar passage, many schools simply may not consider quantitative competencies a priority in the first-year curriculum. First-year faculty may also assume that quantitative content is addressed in upper-level courses that are widely subscribed.

Table 10.
Adjusted Importance Changes for Task Categories from 2003 to 2018

Task Category	Overall Change	2018 Adjusted Importance Rating	
		LWRS	Not LWRS
Reasoning	0.02	3.72	3.70
Constructing Arguments	*	3.63	3.54
Analysing Legal Problems and Cases	*	3.85	3.80
Instrumental Writing	0.20	3.34	3.22
Professional Writing	0.13	3.54	3.46
Listening	-0.01	3.37	3.34
Quantitative	0.45	1.88	1.90

* Negligible change.

A small positive change for each of the two writing categories is evident in the Overall Change column in Table 10, possibly reflecting an increased emphasis on professional instruction in legal writing and related research during the first year of law school. The 2018 average importance rating is separated between LWRS faculty and other faculty in the second and third data columns. As shown in Table 10, LWRS faculty account for a substantial portion of the overall increase in the writing categories. The quantitative category had the largest increase, but two observations temper this change: the increase came from an exceptionally low baseline in 2003, and the average importance of quantitative competencies remained relatively low even after the relatively large shift.

V DISCUSSION

This research confirms previous work that traditional competencies (eg inductive reasoning or interpreting statutes) remain the centrepiece of first-year legal education.⁴⁷ It is important to note, for example, that reading critically was perceived as highly important to the degree that there was very little room for this competency to improve (rated at 3.93 in 2018 on a 1-4 scale). These core competencies are perceived as becoming more important over time, as are the so-called ‘soft skills’ of group work, time management, and setting priorities. There are also some signs that legal education is responding to technological developments in digital research, which has a close connection to resources at law libraries. We expect this trend to continue and pose the question of where and how students will be introduced to principles of applied technology to be prepared for relevant upper-division courses

⁴⁷ Walzer, above n 1; Luebke, above n 18.

and post-graduation professional competence.⁴⁸ Together, both foundational and technological competencies may change the nature of legal education and legal practice.⁴⁹ The identification of important competencies may also shape responses to increasing calls for reform in curriculum and pedagogy.

While legal education has vastly different structures in different national contexts, the issues of competencies are cross-cutting.⁵⁰ Agreement on general categories of skills is only an initial step. More concrete skills also need to be instantiated in coursework in unison with broader skills to be supported across the years of legal study in an articulated curriculum of coursework and educational experiences. In this paper, we focus on competencies that are trending toward more perceived importance in the first year of legal study. First-year students are highly diverse, and a curriculum must accommodate a wide range of preparation. The challenge is to identify a set of valued competencies and then to sequence associated instruction.

In one approach to addressing this issue at Adelaide Law School, instruction in a foundations course focused on core legal skills within a ‘foundational bootcamp’ during the initial weeks of the first semester. This was intended to jump-start problem-based legal reasoning in a substantive area of law (Torts) by providing more equitable access to unfamiliar material.⁵¹ Another innovation was designed at Florida University College of Law. In the first semester, the course ‘Introduction to the Study of Law’ begins with four classes traditional law school skills (eg outlining, case reading). In the next unit, there is greater focus on reasoning and legal analysis. The emphasis on the final unit is on preparation for examinations, and it includes a simulated examination. In the second semester, students take the Legal Reasoning course. Simulated examinations are continued in each doctrinal course.⁵² In both programs described above, the sequence of skill instruction was not strictly linear, but rather more iterative.

Quantitative competencies in basic descriptive statistics (eg interpreting graphs) showed strong increases, but were still perceived

⁴⁸ Comments to the ABA Model Rules of Professional Conduct make explicit the lawyer’s duty to continue to learn new technology. See, eg Don Macaulay, ‘What Is a Lawyer’s Duty of Technology Competence’, *SmartLawyer* (Web Page, Feb. 2, 2018) <<https://www.nationaljurist.com/smartlawyer/what-lawyers-duty-technology-competence>>.

⁴⁹ Zhiqiong Jun Wang, ‘Editorial: Law in Context For The Digital Age’ (2019) 36(1) *Law in Context* 64.

⁵⁰ Jones and Cownie, above n 16.

⁵¹ Webster, above n 19, 2. In the evaluation of this program, it was reported that student satisfaction with learning and teaching and grades in Torts increased, while nonsubmission rates for the Foundations assignment decreased. However, there was little change in the overall grade distribution.

⁵² Louis N. Schultz, Jr., ‘Using Science to Build Better Learners: One School’s Successful Efforts to Raise its Bar Passage Rates in an Era of Decline’ (2019) 68(2) *Journal of Legal Education* 230. Compelling support for the efficacy of the Florida law program was given by CJ Ryan and Derek T. Muller, ‘The Secret Sauce: Examining Law Schools that Overperform on the Bar Exam’ (Research Paper, University of Louisville School of Law, 15 March 2022) <<https://ssrn.com/abstract=4021458>> or <<http://dx.doi.org/10.2139/ssrn.4021458>>.

to be of very low importance among faculty who taught required courses. Quantitative competencies are more likely to be of greater importance in specialty courses and specific areas of legal practice such as taxation or antitrust law. In any case, it does not seem feasible to incorporate quantitative reasoning into a packed schedule of doctrinal courses for first year students, at least in the US, especially because the preparation of these students spans humanities, social sciences, and natural sciences. Core competencies in reading, writing, and critical thinking may prepare students for understanding the principles of technological developments (such as the use of artificial intelligence for evaluating risk), but overall capacity in logical analysis may serve as the critical foundation for acquiring an understanding of these principles. As noted in the ABA 'Model Rules of Professional Conduct', determining whether a lawyer is employing requisite knowledge, a number of factors must be considered including 'the relative complexity and specialized nature of the matter.'⁵³ Competent legal representation depends, in some cases, upon skills that pertain to all legal problems. However, in other cases, competencies may require additional study, professional development, or association with parties having an established capacity in the case at hand.

The results of the two surveys (and future surveys) reported in this study also have implications for diversity and equity, especially in pre-law studies. Legal education can be cloaked in mystery, especially for those who are the first in their family to attend university or law school. Transparency about law faculty expectations can help level the playing field. Students who have more training in competencies identified as important are more likely to be admitted, to matriculate and to succeed in law school. Conversely, students with fewer opportunities to learn these competencies are at a disadvantage to matriculate or succeed relative to those with more privileged backgrounds. If lack of opportunity to learn and practice these competencies is recognized early in academic advising, appropriate plans for course work and academic activities can be formulated. Likewise, for students who matriculate in a law school, academic advisors and faculty, including academic support educators,⁵⁴ can identify those who need academic support in acquiring particular competencies as early as possible in the first year of study. Preparation for and support in legal study constitute one approach to increasing diversity in the pipeline to legal education.

VI CONCLUSIONS

The results reported here are not intended to generalize directly to upper-level courses and do not address potential differences between

⁵³ See American Bar Association, *Model Rules of Professional Conduct* (9th ed, 2020), Rule 1.1, parts [1] and [2] <https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/>.

⁵⁴ The Association of Academic Support Educators collects materials that provide a useful introduction to their roles in U.S. law schools, eg <<https://associationofacademicssupporteducators.org/>>.

legal writing faculty, clinical faculty, or other faculty members. Moreover, different schools have different missions that imply different sets of priorities for curriculum and instruction. Also, we do not address individual differences and needs across students within any given law school. These factors need to be weighed against the results reported in this study, both in reflecting upon curriculum and in advising students. Also, some competencies, such as critical reading, are quite broad. It is informative that critical reading is valued highly, but no constraint or mandate is suggested or implied in terms of how to ensure that critical reading ability is developed.

The goal of this study was to identify tasks considered important for success in required first-year law school courses and to understand how their perceived importance has changed over time. All nonquantitative tasks in 2018 surveys had average importance ratings greater than the mid-scale response value of 2.5, indicating they were all deemed important by faculty teaching required courses. All the top-rated tasks' rankings were similar across gender categories, though moderate differences were observed among faculty teaching different required first-year courses. Writing competencies showed a moderate gain, as seen in Table 10. However, the gains for the highest-rated writing competencies ('writing concisely and clearly' and 'arguing logically and persuasively in writing') occurred from a very high baseline—so there was less room to increase. In general, the increased importance of writing and research competencies may have been influenced by the contemporary emphasis on 'skills' instruction in legal education. This trend was evident to a lesser degree in other courses. In any case, there was clearly a consensus on the most important tasks. For example, in 2018, critical reading was valued for all types of courses, ranging (on a scale of 1–4) from 3.87 for LWRS to 3.97 for Contracts. Similarly, the importance rating for 'Identifying the statute operating in a case' ranged from 3.79 for Constitutional law to 3.93 for LWRS. A clear consensus also emerged on quantitative tasks, which were still the least likely to be rated as highly important despite relatively large gains in 2018.

Three tasks had large increases in importance ratings: 'editing or rewriting,' 'using electronic databases such as LexisNexis and Westlaw,' and 'using the law library and legal references.' These competencies may be related in practice. Given the abundance of online material that can be searched and downloaded, law students may learn to adapt and apply pre-existing work ('go-to' documents) to produce written documents more efficiently. However, this requires a solid prior foundation in analysing relevant legal precedents and fact patterns, and structuring arguments for presentation in legal memos and briefs. In contrast to sizable gains in these three tasks, there was a modest decline in the average importance ratings of tasks related to theory or social policy, as shown in Table 7.

The focus of this article has been on the core set of tasks performed by students in the first year of law school as those tasks have evolved from 2003 to 2018 in the US. The data were drawn from surveys of law faculty members primarily teaching first-year courses. While these data and related analyses should provide helpful insights, other questions

can fruitfully be pursued with an eye to the future. One key area of interest concerns ‘cultural competencies’ that are important as more schools are developing and adopting anti-racist curricula.⁵⁵ Another area of interest for future research is whether the COVID-19 pandemic changed expectations about the importance of various competencies since the 2018 survey. If supplemented with a school-level questionnaire, importance ratings could also be examined with respect to policy changes in curricula, differences in missions of law schools, and the composition of their student bodies. For example, do some schools emphasize reading, listening, quantitative skills, time management, or statutory interpretation more heavily? More advanced survey techniques would allow for larger and more representative samples of faculty or schools, with an appropriate methodology to minimize potential nonresponse bias. This would allow examining additional effects on importance ratings such as class size, first-year/upper-level differences, and faculty background factors. School-level factors of interest include curricular changes in response to accreditation standards requiring instruction in professional skills, attention to learning outcomes, and bar passage emphasis. These are only a few of the important questions that warrant exploration through future research.

⁵⁵ See The Association of American Law Schools, ‘Law Deans Antiracist Clearinghouse Project’ (Web Page) <<https://www.aals.org/antiracist-clearinghouse/>>; ABA Standards Committee Memorandum (April 30, 2021) *Proposed Changes to Standards 205 and 206, 303 and 508, and 507* <https://www.americanbar.org/content/dam/aba/administrative/legal_education_and_admissions_to_the_bar/council_reports_and_resolutions/may21/21-may-standards-committee-memo-proposed-changes-with-appendix.pdf>.