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Grades Matter; Legal Writing Grades Matter Most

Jessica L. Clark

Introduction

Each semester, after we have completed our final grading, a colleague and I play a comparison game. I teach Legal Research and Writing (LRW) and he teaches Contracts. We want to find out how our shared students performed in each other's course. We always start at the top; he wants to know the legal writing grades of his top exam students, and almost always, one of those top performers is one of my students. Year after year, we find matches; our top students are our top students. Our bottom students are our bottom students.

We have also played a version of the game to see whether student improvement also correlates. Because we both teach two-semester courses, we can compare how our shared students performed from one semester to the next. One student in particular sticks in my mind, a student who struggled all fall semester in my class, and earned a grade toward the bottom of the class. The student performed similarly in Contracts in the fall. In the spring, however, the student wrote one of the strongest appellate briefs in my class, and improved his grade from the low B-range to the A-range. My colleague and I marveled at how the student managed a similar significant growth in performance in Contracts II.

After years of playing at this comparison game, and becoming more and more convinced of the significance of legal writing to a law student's academic performance in all law school courses, and ultimately to academic standing at graduation, I sought to determine whether data supported the anecdotal relationships between good grades in LRW and good grades in other

· Visiting Associate Professor of Legal Research and Writing, Georgetown University Law Center. Thank you to my deans and colleagues at George Washington University Law School and Georgetown University Law Center. Thank you to Kael Haig for her statistical analysis, to James Howard for his early research assistance in working with the data, to Kristen Murray for her feedback, and to Steve Schooner for the inspiration and encouragement to work on this project. I am deeply indebted to Rosanne O'Hara, Head of Records at George Washington University Law School (or as I like to call her, The Person to Call When You Need Anything), and to Douglas Maggs for the data compilation, including removal of all student identification information, and organization into an easily manipulable excel spreadsheet; this project would not be possible without your meticulous assistance.

first-year courses. Legal writing professors know that, at least anecdotally, the students who do well in legal writing courses are the students who do well in their other law school courses. They are the students who get jobs and internships. They are the students who get clerkship interviews and even clerkships. They are the students who understand what law school is trying to teach them and practice it in all that they do during their law school career.

The literature on law school grades acknowledges the importance of grades to law students and employers,¹ and a recent study by Professors Richard Sander and Jane Bambauer reported “that performance in law school—as measured by law school grades—is the most important predictor of career success.”² And grades may be more important in measuring career success than the prestige of the law school attended.³ Professors Sander and Bambauer call for future research to be based on “the most accurate possible transcript information available” and to “investigate factors that lead to high grades.”⁴ This article responds to this call by using transcript-like data and

¹ E.g., Richard Sander & Jane Bambauer, *The Secret of My Success: How Status, Eliteness and School Performance Shape Legal Careers*, 9 J. EMPIRICAL LEGAL STUDIES 893 (2012); Emily Zimmerman, *Do Grades Matter?*, 35 SEATTLE U. L. REV. 305 (2012); Leslie M. Rose, *Norm-Referenced Grading in the Age of Carnegie: Why Criteria-Referenced Grading is More Consistent with Current Trends in Legal Education and how Legal Writing Can Lead the Way*, 17 J. LEGAL WRITING INST. 123 (2011). Some law schools have even instituted retroactive change to student GPAs “to make students look more attractive in a competitive job market,” and other law schools have changed grading curves to be more lenient. Catherine Rampell, *In Law Schools, Grades Go Up, Just Like That*, N.Y. TIMES (June 21, 2010), http://www.nytimes.com/2010/06/22/business/22law.html?pagewanted=all&_r=0.

² Sander & Bambauer, *supra* n. 1, at 895. Professors Sander and Bambauer’s research used six databases with an incredibly large number of entries. *Id.* Several of the databases consist of information from interviews, surveys, and public records. *Id.* Sander and Bambauer note the potential for misreporting in surveys, including the specific example of 81% of one of the survey’s respondents reporting “they were in the top half of their classes, and the overreporting is even worse for the top-10 schools (with 94 percent reporting that they were in the top half of their graduating class).” *Id.* at 910 n.33; *see also id.* at 916 (recognizing transcript data as more accurate).

³ *Id.* at 914 (“Something about doing well in law school is strongly associated with lasting career success, and proves to have more efficacy than law school eliteness.”); *see also id.* at 920 (“Law school prestige is important—especially attending a ‘top-10’ school—but its positive effects are consistently smaller than the effects of high law school grades. . . . Law school grades . . . are a double-edged sword: poor grades are as harmful to one’s career as good grades are helpful.”).

⁴ *Id.* at 926.

isolating the legal writing course grade as a predictive factor to law school performance.

Research on law school grades most commonly looks at grades in the form of Grade Point Average (GPA), not by course or skill.⁵ In one study, however, conducted by surveying 157 law students, Professor Leah Christensen studied the relationship between “class rank and three academic variables: Undergraduate Grade Point Average (UGPA), LSAT score and Lawyering Skills Grade.”⁶ Professor Christensen’s results demonstrated that the grade in Lawyering Skills, a legal writing course, “was the strongest predictor of law school success.”⁷ Using a larger data set, this article continues the exploration into relationships between legal writing course grades and how they relate to academic success in law school.⁸

Law school educators, administrators, and scholars have been calling for change in legal education for a long time. With the changing economy,⁹ declining employment statistics,¹⁰ downsizing legal employment market,¹¹

⁵ No doubt this is due at least in part to the relative ease of collecting GPA data over collecting individual course grade data.

⁶ Leah M. Christensen, *The Power of Skills Training: A Study of Lawyering Skills Grades as the Strongest Predictor of Law School Success (Or in Other Words, It’s Time for Legal Education to Get Serious About Skills Training If we Care About How Our Students Learn)*, 83 ST. JOHN’S L. REV. 785, 797 (2009).

⁷ *Id.*

⁸ The data set used here is also likely more reliable because it was received directly from the records office and did not involve student reporting, decreasing the likelihood of erroneous data.

⁹ *E.g.*, Paul Campos, *The Crisis of the American Law School*, 46 U. MICH. J. L. REFORM 177, 178–79 (2012) (“[F]or more than thirty years, the percentage of the American economy devoted to legal services has been shrinking.”).

¹⁰ Joe Palazzolo, *Law Grads Face Brutal Job Market*, WALL ST. J. (June 25, 2012), <http://online.wsj.com/article/SB10001424052702304458604577486623469958142.html>; Paul Campos, *supra* n. 9, at 197–204. Analyzing information reported by the National Association for Law Placement and the American Bar Association, Professor Campos “estimate[] that perhaps 15 percent of contemporary law graduates are securing high-paying, entry-level legal jobs, and another 25 percent are getting legal jobs that pay in the mid five figures, while a solid majority of graduates are unable to secure full-time genuinely long-term legal employment within a year of graduation.” *Id.* at 204. As a sign of ongoing employment issues, the National Association for Law Placement (NALP) reported that “law firms continued to exercise limited entry-level hiring.” PERSPECTIVES ON FALL 2012 LAW STUDENT RECRUITING 1 (2013), <http://www.nalp.org/uploads/PerspectivesonFall2012LawStudentRecruiting.pdf>; *see also*

increasing tuition at rates exceeding inflation,¹² and a declining law school applicant pool,¹³ legal education cannot simply stand by and hope things get better.¹⁴ Information about how performance in legal writing correlates to law school performance outside of the legal writing course is nowhere close to curing any of these ills. Such information is, however, useful for schools in thinking about how to move forward. Slow as it may be to come or as difficult to manage,¹⁵ law schools must react to these and other changes; part of that

Karen Sloan, *Summer Associate Hiring Declines Amid Anemic Legal Market*, NAT'L L.J. (Feb. 11, 2013)

http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202587755601&Summer_associate_hiring_declines_amid_anemic_legal_market. Not all the commentary on legal employment is negative. See William E. Foster, *There Are Not Too Many Lawyers*, THE HUFFINGTON POST, Feb. 26, 2013 1:12 PM, http://www.huffingtonpost.com/william-e-foster/not-too-many-lawyers_b_2631224.html (describing lawyers as “problem-solvers,” and arguing that “the societal benefits of a well-trained stable of problem-solvers cannot be overstated”).

¹¹ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, 2012-13 OCCUPATIONAL OUTLOOK HANDBOOK, Lawyers, <http://www.bls.gov/ooh/legal/lawyers.htm> (Feb. 10, 2013)

(“Employment of lawyers is expected to grow by 10 percent from 2010 to 2020, about as fast as the average for all occupations. Competition for jobs should continue to be strong because more students are graduating from law school each year than there are jobs available.”).

¹² Karen Sloan, *Tuition is Still Growing*, NAT'L L.J. (Aug. 20, 2012) (“Average tuition and fees at private law schools will increase approximately 4 percent over last year to \$40,585, according to an examination of published rates by The National Law Journal. That’s the first time private-school rates have crossed the \$40,000 threshold. In-state resident students at public law schools will see a 6 percent increase on average, to approximately \$23,590. Inflation is running at about 1.7 percent.”); see also Campos, *supra* n. 9, at 179–83.

¹³ Karen Sloan, *Avoiding Law School in Droves*, NAT'L L.J. (Jan. 28, 2013),

<http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202585810784&et=editorial&bu=National%20Law%20Journal&cn=20130128nlj&src=EMC-Email&pt=NLJ.com-%20Daily%20Headlines&kw=Avoiding%20law%20school%20in%20droves&slreturn=20130110212744> (“As of mid-January, 27, 891 people had applied for seats in American Bar Association-accredited law schools. That represented a 20 percent decline since last year (and 2012 was hardly a banner year itself, as the number of applicants fell by nearly 14 percent). If the trend holds through the final months of the admission cycle, law schools would see a 38 percent crash since their peak in 2010.”).

¹⁴ Campos, *supra* n. 9, at 222 (“The status quo in American legal education has become unsustainable.”); see also Ethan Bronner, *A Call For Drastic Changes in Educating New Lawyers*, N.Y. TIMES (Feb. 10, 2013), http://www.nytimes.com/2013/02/11/us/lawyers-call-for-drastic-change-in-educating-new-lawyers.html?_r=0 (describing recent work of the ABA Task Force on the Future of Legal Education).

¹⁵ See ROY STUCKEY ET. AL., BEST PRACTICES FOR LEGAL EDUCATION 283 (2007) (acknowledging a primary challenge in legal education reform as the legal academy itself).

change may include curricular reform that better prepares students for success—with success defined as after-graduation employment.

Advocates of reform have been calling for more writing in legal education for years and many law schools have responded.¹⁶ More writing in law school courses means more formative feedback and that means more skills development.¹⁷ More skills development means more and better preparation to work as a lawyer.¹⁸ With an understanding of how legal writing grades relate to law school performance, law schools will be better positioned to evaluate their own curriculum, relying on empirical data to lead change rather than merely responding to the news report of the day. For example, evidence of the

¹⁶ See CATHERINE L. CARPENTER, A SURVEY OF LAW SCHOOL CURRICULA 2002-2010, Executive Summary, http://apps.americanbar.org/abastore/products/books/abstracts/5290104%20exec%20summary_abs.pdf, at 14 (describing one of the results of “wholesale curricular review” as “greater emphasis on various kinds of writing across the curriculum”). According to the report, “Legal Research and Writing continues to grow in stature as law schools increased the number of units and expanded course coverage to include skills instruction beyond traditional advocacy.” *Id.*

¹⁷ Training in legal reasoning and writing has broader application than simply developing a skill to write a particular document. In a recent discussion about reform in legal education, Professor Michael J.Z. Mannheimer wrote about the importance of skills learned and developed in legal writing courses:

Perhaps reading, writing, and reasoning skills are still given too much space in the law school curriculum. But I do not think so, for two reasons. First, I still encounter third-year students who have not picked up these requisite skills on the eve of graduation. For them, there is not too much of the conventional courses that teach how to read cases, how to interpret statutes, how to see that one doctrinal line dovetails or is in tension with another doctrinal line, and so forth – there is too little of it. Second, if one graduates practiced in the art of figuring out what the law is, one can pretty much figure out how to take a deposition. But the reverse is not true: if one has practice taking a deposition, but lacks the skills to be able to figure out what the law is, the next deposition in an even slightly different area of law will be a disaster.

Michael J.Z. Mannheimer, *What We Talk About When We Talk About Skills*, PRAWFSBLAWG (Feb. 12, 2013), <http://prawfsblawg.blogs.com/prawfsblawg/2013/02/what-we-talk-about-when-we-talk-about-skills.html>.

¹⁸ More skills development, including the thinking and communicating central to problem-solving, also means better preparation to serve clients, which of course is what lawyers do. See Ruth Anne Robbins, *Law School Grads Should be “Client Ready,”* NAT’L L.J. (Feb. 18, 2013), http://www.law.com/jsp/nlj/PubArticleNLJ.jsp?id=1202588420895&Law_schools_goal_should_be_client_ready&slreturn=20130121111606.

relationship between performance in legal writing courses and performance throughout law school could inspire a school to incorporate more writing into law school courses or to expand a legal writing curriculum to carry throughout a student's law school career.¹⁹

This article provides the hard data to support the significance of writing skills by demonstrating the correlation between performance in a legal writing course and performance in other law school courses. Of course grades and GPA data are not the sole measures of success, but good grades often translate to job interviews, job offers, and ultimately, jobs—the true measure of success these days.²⁰

In this first of a series of articles²¹ on legal writing course grades and correlation to success throughout a student's law school career, I will set out the data demonstrating a correlation between legal writing grades and performance in law school as measured by course grades. In Part I of this article, I describe the data set, the particulars of the grading curves used at George Washington University Law School (GW), and other details as context for the data. In Part II, I report the data in various ways, to illustrate the relationships between legal writing grades and other law school course grades. In Part III, I identify some initial conclusions drawn from the data and preview additional articles in this series by identifying opportunities for further empirical research.

¹⁹ In an article about law school performance, it seems disingenuous to ignore the state of legal education today. With almost daily reports of low employment statistics, rising tuition, and declining applications, as well as criticisms of tenure, there is no question that these are challenging times for law schools. *See supra* nn. 9–14. No matter what methods of reform a law school implements, legal analysis and writing will remain an important lawyering skill, and if law schools remain committed to training students for practice, courses that teach and develop legal research and writing skills must remain a part of the law school curriculum. It is through this lens that I write this article, and I offer more specific ideas for how to use this data in reforming legal education. *See infra*, part III.

²⁰ *See* Sander & Bambauer, *supra* n. 1, at 895.

²¹ *See infra*, part III, for a preview to future research projects in this series.

I. Data, Curves, and Expectations

A. The Data Set

The data consists of the graduating class of 2011's fall and spring legal writing course grades, six cumulative semester GPAs, and a final cumulative GPA at graduation.²² There are 380 students in the class of 2011 data set.

²² Complete data sets on file with author. The class of 2011 was the first to take Legal Research and Writing on a graded system. Prior to the fall 2008 semester, LRW was graded on a modified pass/fail system with possible grades of High Pass, Pass, and Low Pass. In that system, there was a cap of three High Pass grades per small section, but none required, and there was no requirement for Low Pass grades. Under this grading system, there was very little to no administrative oversight of the individual sections' grades, other than a cursory review of meeting the single restriction on High Pass grades. Professors who reported more than one Low Pass were occasionally asked to discuss before administrative approval of the grades. GW moved to a graded LRW system in part given the standard for LRW courses to be graded in other law schools. The overwhelming majority of law schools grade LRW with grades that are included in GPAs. ASS'N OF LEGAL WRITING DIRECTORS & LEGAL WRITING INST., ALWD/LWI 2012 SURVEY REP. 9 (2012) (available at <http://www.lwionline.org/uploads/FileUpload/2012Survey.pdf>) [hereinafter ALWD/LWI SURVEY REP.]; (160 schools reported LRW grades "are included in the students' GPAs; 0 reported that LRW grades "are not included in the students' GPAs; 8 reported a modified pass/fail system; 3 reported a "purely pass/fail" method; and 12 reported "other method," which "generally reflected combinations of the methods listed in [the] question."). *Id.* Other reasons for moving to graded LRW included those long-recognized as the problems of an ungraded legal writing course:

If professors in other classes assign "real" grades, which LRW faculty assign only pass/fail grades, the risk increases that students will perceive the legal writing course as less important than the other first-year subjects. Non-legal writing faculty may see legal writing as less substantial than the doctrinal courses whose grades may determine whether a student can join law review or find advantageous summer employment. As a result, these faculty members may be less receptive to the time and attention students spend on their legal writing assignments. Students, in turn, may be influenced by this attitude and, as well, believe that it is more efficacious to put more time in on the classes where the grades will count.

ERIC B. EASTON ET.AL., SOURCEBOOK ON LEGAL WRITING PROGRAMS 77 (2d ed. 2006).

Even though the majority of law schools grade LRW and include those grades in students' GPAs, this may not be a good thing. In her article, Professor Rose, argues in favor of using "criteria-referenced grading" instead of mandatory curves, or "norm-referenced grading" in LRW courses. Rose, *supra* n. 1, at 146–50. Among her reasons for favoring criteria-referenced grading over norm-referenced grading in legal writing courses, she cites the small size of legal writing classes, the common use of rubrics by legal writing professors to evaluate written work product, and the individualized feedback and attention students receive. *Id.* Professor Rose acknowledges the risk of moving away from consistent grading among all first-year courses and singling out LRW, but sees legal writing professors as leading the change for other courses. In other words, rather than suggesting legal writing courses return to the dark

More specifically, the data set includes nine pieces of information per student. First, there are two letter grades, one for each semester of the legal writing course.²³ Then there are six cumulative GPAs, one for each semester of the six-semester law school course of study. And finally, there is an overall cumulative GPA, the GPA at the student's graduation. The following is an example of the data for an individual student:

Fall LRW	Spr LRW	1L Fall GPA	1L Spr GPA	2L Fall GPA	2L Spr GPA	3L Fall GPA	3L Spr GPA	Grad Cum GPA
B+	A-	3.666667	3.711111	4.128205	4	3.861111	3.851852	3.859649

The student data was stripped of all identifying information before I received it and I do not have any information about the students or their coursework other than the grades and GPAs.²⁴

The first-year curriculum at GW is typical of most law schools and includes five required courses for a total of fifteen credits each semester.²⁵ In the fall, students take Introduction to Legal Research and Writing for two credits, Torts for four credits, Contracts for three credits, Civil Procedure for three credits, and Criminal Law for three credits. The legal writing course is always taught in a small section, approximately 12-14 students; the vast majority of these small sections are taught by adjunct professors and a handful

ages of disparate treatment, she recommends legal writing faculty take the lead in moving toward more formative assessment and more accurate and fair grading in all law school courses. *See id.* at 150–58.

²³ The fall and spring semester legal writing courses are individually named: Legal Research and Writing is the fall course and Introduction to Advocacy is the spring course. Both courses are referred to as LRW in this article.

²⁴ Student anonymity is critical in working with grade data, but limited identifying information may be useful in measuring other variables. For example, future projects may include comparing part-time and full-time students' relative rates of success. One disclaimer about student anonymity in this project: I knew the identity of one of the students in the data set. The student who graduated at the top of the class was my former LRW student and because I received the data in highest to lowest cumulative GPA at graduation, I knew the student listed first.

²⁵ *See* Carpenter, *supra* n. 16, at 15 (noting that “the first-year lineup of core courses has remained constant since 1975”).

are taught by full-time professors of legal research and writing. With one exception, the remaining first-year courses are taught in large sections, ranging from approximately 70 to 120 students. One of the first-year fall courses is taught in small sections of approximately 36 students. All of these non-LRW courses are taught by full-time faculty (sometimes a visiting faculty). In the spring, students take Introduction to Advocacy in the same 12-14 student section as the fall legal writing course, almost always with the same professor.²⁶ Students also take a continuation of Civil Procedure and Contracts, for three credits each, sometimes with the same professor from the fall and sometimes not. Students also take Constitutional Law for three credits and Property for four credits. In this article, all of the first year courses except for the LRW courses are referred to as “non-LRW courses” and in the discussions about a student’s GPA from these non-LRW courses, the GPA is called “non-LRW GPA.” Grades from other than LRW are called “non-LRW grades.”

At the time relevant to the data sets, students had only one other required course, Professional Responsibility, for either two or three credits, which could be taken at any point during the remainder of their law school career.²⁷ Other than that course, the semester GPAs and cumulative GPAs represent innumerable combinations of courses and credits adding up to at least the minimum number of credits for graduation. Given the data set provided, there is no way to determine how many credits were taken each semester beyond the first year.²⁸ The only certainty is that each student had at least “84 credit hours, 67 of which must have been taken for a letter grade” over the course of the student’s law school career.²⁹

²⁶ Given the nature of an adjunct-based program, staffed by practitioners, there are rare occasions when an adjunct is unable to teach in the second semester, for example, due to unanticipated work commitments. Most often, these are work commitments that require the adjunct to be out of town, making it impossible to maintain a regular teaching schedule.

²⁷ Since then, GW has added a professional skills requirement. *See* THE GEORGE WASHINGTON UNIVERSITY LAW SCHOOL BULLETIN 2012-2013 12 (2012) (“All Juris Doctor students are required to complete 2 credits in a single course that requires students to learn and develop practical legal skills through actual or simulated lawyering exercises.”) [hereinafter GW BULLETIN].

²⁸ Parsing the data in this way, GPA to credit hours, could be illuminating. It may, for example, be the case that students taking fewer credits per semester had better academic success.

²⁹ *See* GW BULLETIN, *supra* n. 27, at 9.

Unlike some of the empirical research on law school grades and other aspects of legal education that relies on student survey data,³⁰ the data used in this research was obtained directly from an administrative office. This type of data, pure grades and GPA numbers, may be difficult to access in a useful way, both because of privacy concerns about the student data and because of how the data is organized or recorded in a school's grading program. One reason for the dearth of research on law school grade data may simply be that it is too hard to get.³¹

There are limitations to the data set. Given the form in which the data was compiled, it was possible to separate out the LRW grade contribution to the first-year fall and spring semester cumulative GPAs, but it was not possible to separate out the LRW course grades in the cumulative GPA at graduation. Because the data sets did not contain credit hours per semester or a total at graduation, the LRW grades' contribution to the overall graduating GPA could not be extracted.

B. The Law School Grading Curves

To put the data in context, an understanding of the academic evaluation system is helpful. At GW, there are eleven letter grades with numerical equivalents, ranging from A+ equivalent to 4.33 to F equivalent to 0. Each one-third grade step is approximately .33 or .34 away from the grade immediately above and below (e.g., a grade of A- has a numerical equivalent of 3.66, which is .34 lower than the grade immediately above, an A at 4.00, and .33 higher than the grade immediately below, a B+ at 3.33).

³⁰ See e.g., Christensen, *supra* n. 6; Ellie Margolis & Kristen Murray, *Say Goodbye to the Books: Information Literacy as the New Legal Research Paradigm*, 38 U. DAYTON L. REV. __ (2013) (reporting and analyzing survey responses from 712 law students from twelve different law schools). I have no specific critique of the surveys used, but merely acknowledge that students may misreport, even unintentionally. Student misreporting seems especially likely when seeking grade information because even anonymously, students may not want to report their actual grades. See *supra* n. and accompanying text.

³¹ Professor Paul Wangerin acknowledged the “dauntingly difficult” nature of collecting grade data (given the computer system for storing grade information), sorting the data, entering the data into spreadsheets, and reporting the data. Paul T. Wangerin, *Calculating Rank-in-Class Numbers: The Impact of Grading Differences Among Law School Teachers*, 51 J. LEGAL EDUC. 98, 106 (2001). Collecting grade and GPA data is complicated, but it is not impossible. The value in analyzing the data is worth the time, effort, and creative thinking to assemble the data sets.

There are mandatory curves for all first-year courses. In large classes, defined as classes with 35 or more students, the curve requires 10-25% A+ and A grades. There are no required A+ grades. The largest required distribution is for A-, B+, and B grades at 40-65%. The remaining requirements are: 10-25% for B- grades; at least 5% for C+, C, and C- grades; and 0-5% for grades of D and F.³²

The LRW curve is more generous than the standard first-year course curve, allowing more A-range grades and requiring fewer low-end grades. The specific parameters for the LRW grading curve are outlined below:³³

³² TEACHING HANDBOOK, GEORGE WASHINGTON UNIVERSITY LAW SCHOOL (2012) 15 (on file with Author). Like many law schools, GW allows a different curve for smaller courses. *Id.* at 16. Specifically, GW's small class curve allows for up to 10% A+ grades and up to 50% for A-range grades (A+, A, and A-). *Id.* At the low end, grades of D and F are capped at 8%. *Id.* At least one reason for not using the same curve in smaller courses is the lower likelihood that the mandatory curve will accurately capture the students' performance. Robert C. Downs & Nancy Levit, *If it Can't be Lake Woebegone . . . A Nationwide Survey of Law School Grading Normalization Practices*, 65 UMKC L. REV. 819, 845-46 (1997) (describing various reasons for variations on curves, including a requirement for minimal enrollment in a course for the standard curve to be applicable).

³³ According to the 2012 ALWD/LWI Survey Report, 46 of 184 (25%) schools responding to the survey, reported that LRW is "[g]raded on a curve or mean specifically for LRW. SURVEY REP., *supra* n. 22, at 10. There were 108 schools reporting the same grading for LRW as all first-year courses, with 10 grading "on some other curve or mean" and 20 "None of the above." *Id.* Of the schools with a separate curve for LRW, the reported average required mean was 3.01. *Id.* The reported minimum required mean was 2.5 and maximum 3.7. *Id.* GW's LRW curve is significantly higher than the average, with a required range of 3.25-3.35 (equivalent to a B+ grade) compared to the average 3.01 (equivalent to a B grade). Thus, even within the small number of schools with separate curves, GW stands apart at a higher average mean, and a much higher required minimum.

Though grading LRW seems the norm, anecdotally I know of no other law school that imposes a mandatory curve the way GW does; all LRW grades are normalized within one curve rather than by section. This means that 400-500 students taught by 35-40 different professors are put into the same curve. This particular uniqueness to GW's grading policy usually results in jaw-drops and gasps of disbelief when told to other legal writing professors at regional and national conferences. Though it is not documented, my understanding is that at the time the grading policy was under consideration, faculty were concerned about imposing a curve on a small section, 12-14 students, and that a class that small in size did not support the statistical analysis behind the bell curve. Thus, the mechanism to control for that was to make the entire class fit into the same curve. Interestingly, only two faculty members able to vote on the policy taught LRW, meaning no other faculty member had to consider the administrative difficulty of instituting such a policy. I've often wondered what a group of first-year Torts professors, for example, would say if someone told them they had to report scores for their students and then an administrator would enter all the scores into a spreadsheet. And then based on the numbers, and taking nothing else into account (for example, that one professors'

- One-third of the 1L class may have grades in the A range (A+, A, A-).
- A+ grades are capped at 5% of the 1L class.
- There is no cap on B-range grades (B+, B, B-).
- Grades below B- should not exceed 5% of the 1L class.

In addition, and uniquely, the LRW curve is applied to the entire 1L class,³⁴ even though LRW is taught in approximately 40 small sections of 12-14 students with approximately 40 different professors, (“LRW professors”).³⁵ There is no section curve or grade requirement for a single 12-14 student section of LRW, but rather, the entire set of LRW grades from all sections must comply with the rules. That is 400-500 students in one curve.³⁶

Administration of this class-wide curve requires a standard set of assignments, each with a designated number of points, adding up to a total for

grades were higher than the maximum allowed or that another section’s grades were lower than the minimum), determine the grades.

³⁴ Concerns of academic freedom in grading arise here, too, especially when sections with final grades reported outside the required mean (3.25–3.35) go unadjusted but other sections with final grades reported within the required mean are adjusted. It seems more than personally offensive to have grades changed because of how students’ final point totals stack up against hundreds of other students who were not in the same class. Though claims that mandatory curves trespass on academic freedom may be “faculty oriented rather than student oriented,” in my case, I think academic freedom cuts both ways. Downs & Levit, *supra* n. 32, at 848–49. Yes, I want to see my students get the grades they earned. My discomfort knowing that students had their grades raised and lowered due to the 1L-class-wide curve is not about me. If a student did A+ work in my course, but had her grade reduced because of where her point total fell in relation to over 400 other students not in her class, instead of just where she was in relation to her 13 classmates, that student’s A on her transcript is not accurate. If a student did B- work in my course, but that student’s grade is increased to a B because there is room for more B grades within the parameters of the curve, that might benefit the student, but it is also an inaccurate grade report. I am not sure which result is more disturbing; the student who gets only an A instead of an A+ and may not even think to wonder why, much less complain, or the student who performs consistently poorly and then gets a grade suggesting his work is better than it actually is. And there is also the concern about how employers view this inaccurate data, but I digress.

³⁵ There are four full-time legal writing faculty who normally teach at least one section of LRW, and adjunct professors teach the remainder of the sections.

³⁶ A careful reader will observe that there are fewer than 500 students in the data set; this is due to a variety of factors including part-time students, withdrawn students, students taking more than six semesters to graduate, and transfer students.

the semester. These point totals are converted to letter grades at the end of the semester. Given the need for normalization, writing expectations are standardized for each assignment through detailed grading rubrics that balance predictability for student writers and flexibility for LRW professors in grading.³⁷ Each assignment has a unique scoring rubric, “circumscrib[ing] the number of points associated with each element, while at the same time providing enough flexibility to the professor to distinguish between and among papers at a level of nuance that is impossible to capture according to a purely objective methodology.”³⁸ LRW professors receive guidance on the expected range of scores for each assignment as a way to manage the end-of-semester results. Variation in range of scores or clumping of scores is expected and normal from section to section, but extreme variation is problematic and requires rescoring or detailed justification with administrative approval. Through the rubrics and administrative review of scoring results and procedures, at least some of the tension in grading the entire 1L class within one grading curve can be managed.³⁹

In sum, the LRW grading parameters differ from the standard first-year course in several significant ways. First, other first-year courses are curved on a section basis meaning only the students who are enrolled in the same course with the same professor are graded against each other. Second, other first-year courses have a lower cap on A-range grades, meaning the LRW grading scheme is more generous.⁴⁰ Finally, other first-year courses have a requirement for C-range grades, but the LRW curve discourages grades below B-, further reinforcing the generosity of the LRW curve.

³⁷ See Jessica L. Clark & Christy DeSanctis, *Toward a Unified Grading Vocabulary: Using Grading Rubrics to Set Student Expectations and Promote Consistency in Legal Writing Courses*, 62 J. LEGAL EDUC. ____ (2013), (available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1890832).

³⁸ *Id.* at 7.

³⁹ See *id.* at 18–25.

⁴⁰ Or possibly, more subject to inflation. Higher grades in legal writing—or skills—courses is not unique to GW, though the mandated higher curve may be unique. See Wangerin *supra* n. 31, at 106. In Wangerin’s study of rank-in-class calculations, he analyzed first-year grades and first-year students, as I have done here. Though unsubstantiated in the article, he wrote that “teachers of the two skills classes at General Law—like teachers of comparable skills classes at most U.S. law schools—generally gave somewhat higher grades to first-year students than teachers of [other] law classes.” *Id.*

These grading curves and the resultant student data reflect grade normalization parameters common to law schools. Without grade normalization, there would likely be not only different data, but the analysis of the data would likely prove useless. As Professors Downs and Levit described in their research on law school grade normalization, without normalization law school grades are likely to be arbitrary.⁴¹ It would be difficult to draw relationships, for example, if a Torts course had a majority of its grades below B while every other course had a majority of grades at B+, as required by the curve. Such variance would influence the overall GPAs for students and make relationships more difficult to determine. Alas, GW does enforce its grading policies and grades are normalized; thus, the data is useful in analyzing correlation.

C. Expectations

My ultimate hope was that the data would confirm what I tell my students every year: legal writing is the most important course in law school. I expected this study to give me (and my legal writing colleagues) the evidence to back up what we have been saying for years. Specifically, based on years of seeing my top students perform well in their other first-year courses and their longer term success in law school and beyond, I expected the data to show a correlation between LRW grades and other first-year course grades, particularly at the high end of the grade scale. Given the more generous LRW grading curve, I expected there to be some mismatch, but only a third of a grade step above or below. For example, there are more A-range grades possible in LRW than in other first-year courses; that suggests that some A-LRW grades might correlate to B+ semester GPAs. That difference would not necessarily suggest lower performance, just a tighter curve. I also expected to see data supporting the theory that low LRW performers struggled at least as much in their other first-year courses, both because of the crossover from written analysis in LRW to written analysis on law school exams, and again because of the more generous LRW curve that had no requirement for grades below B-.

⁴¹ As an example, they describe some of the variation in grades as one course with a mean of 2.89 and another at 2.28 “in different sections of the same course in the same semester.” Even in a course taught by the same professor in two different sections should variation in percentages for high (A) and low (C- or below) grades. Downs & Levit, *supra* n. 32, at 824–25.

In terms of how students progressed from one semester of LRW to the next, I expected to see improvement from fall to spring. Anecdotally, I've seen students rise from the bottom to the top, though that is rare. I've also seen middle students rise to the top and top students decline slightly from fall to spring. On the theory that the more a student practices writing and receives and incorporates feedback, the better his writing will be, I expected to see evidence of improvement from fall to spring, but knew the improvements would be tempered by the limitations of the curve making it impossible for all students to improve. On the other hand, there is anecdotal evidence that some students decline from fall to spring due, at least in part, to the differences in predictive and persuasive writing and the spring semester oral argument component.

The following section demonstrates in graphical and statistical analysis the patterns and relationships between LRW grades and non-LRW grades.

II. Results: Establishing Correlation between Legal Writing Grades and Performance in Law School

LRW grades correlate to non-LRW grades, especially at the high and low ends. The results of a regression test⁴² of fall and spring LRW grades and cumulative semester GPAs show a positive linear relationship for both fall and spring LRW grades and fall and spring cumulative semester GPAs. Specifically, as the LRW course grade increases, the cumulative semester GPA increases. Here, a grade unit increase is defined as a one-step difference in grade, such as B to B+ and A- to A. These one-step differences were used to measure the related change in cumulative semester GPAs. For the fall 2011 LRW grade data, the regression test predicted a .1144105 increase in cumulative semester GPA per unit increase in LRW grade. For the spring 2012 LRW grade data, the regression test predicted a .1145082 increase in cumulative semester GPA for each unit increase in LRW grade.

Looking at this data from the odds ratio perspective further establishes the relationship between LRW grades and cumulative semester GPAs. When divided into two groups, A and Not A for the LRW grade, the odds ratio for an A grade in LRW and an A-range grade (A+, A, or A-) for the cumulative semester GPA is 6.5. That means for a student earning an A in LRW in the fall

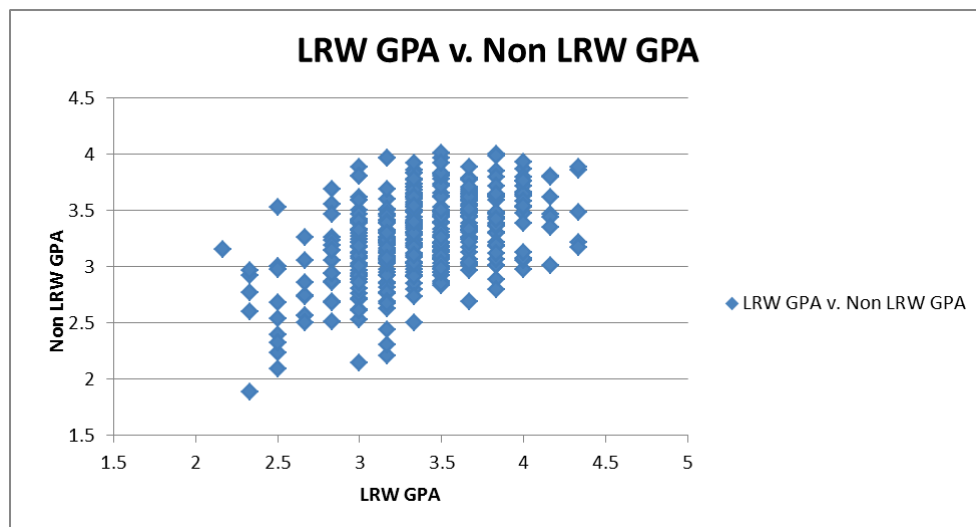
⁴² Regression test and other data on file with the author.

semester, the odds that student will earn a cumulative semester GPA in the A-range is 6.5 times larger than the odds for a student who did not earn an A in LRW. Similarly in the spring, the odds that a student who earns an A grade in LRW will earn a cumulative semester GPA in the A-range is 5.4 times larger than the odds for a student who did not earn an A grade.

A. The Big Picture: LRW Grades Correlate to First-Year GPAs and to Graduation GPAs.

Both in the first year and throughout a student's law school career, LRW grades correlate to student performance as determined by GPAs. In Figure 1, the entire data set of 380 students' first-year grades is plotted to show the relationship between students' two-semester combined LRW GPA and their two-semester combined non-LRW GPA. In terms of credit hours, the LRW GPA is based on four credits, equally weighted between fall and spring, and the non-LRW GPA is based on 26 credit hours, with three three-credit courses and one four-credit course each semester.

Figure 1. Comparison of combined 2-semester LRW GPA to combined first-year non-LRW GPA.



As illustrated by the bunching of data points along each axis, there is a general correlation between LRW GPA and non-LRW GPA in the first year of law school. The correlation is strongest when measuring relationships by GPA ranges rather than by specific GPA numbers. For example, the LRW GPA of 3.5 falls between the numerical equivalents for a B+ and an A-. Comparing the

LRW GPA of 3.5 to the non-LRW GPA of 3.5 shows some correlation, but the correlation is stronger when expanded out to compare the LRW GPA of 3.5 to the entire range between B+ and A-, the numerical equivalent of 3.34-3.66. In other words, an exact match of GPAs is not required to indicate a relationship in student performance. Based on the numerical equivalents for letter grades, my analysis of the grade data takes into account the variation within grade ranges.

Though there is a general relationship between LRW grades and non-LRW grades as illustrated in Figure 1, there are also many outliers that indicate the relationship may not be this easily defined. For example, with an LRW GPA in the low B range, 2.5 to 3 on this chart, there are some relatively high non-LRW GPAs. In this 2.5 to 3 LRW GPA range, the lowest non-LRW GPA is 2.09 and the highest is 3.88, a huge range of 1.79. Most of the non-LRW GPAs fall within the 2.5 to 3.5 range and most within that narrower range are grouped between 3.1 and 3.3. At the high end for LRW GPA, between 3.5 and 4, there is a narrower range of non-LRW GPAs, suggesting the strength of the relationship may be increased as a student's LRW grade increases. The lowest non-LRW GPA in this 3.5 to 4 LRW GPA range is 2.69 and the highest is 4.0, a total range of 1.31. Within this range between 2.69 and 4.0, only a small number were below 3.0 with the overwhelming majority of non-LRW GPAs above 3.0.

Figure 1 also illustrates the general functioning of the law school curve with many of the data points falling above 3.0 for both LRW grades and non-LRW grades. In addition to reflecting the existence and enforcement of the curve, the chart demonstrates an increasingly strong relationship between LRW GPA and non-LRW GPA as the LRW GPA increases. In the high A-, A, and A+ grade ranges, not only are there fewer outliers, but the outliers are less extreme. For the 14 students with an LRW GPA of 4.0, equivalent to an A grade, the non-LRW GPAs range from approximately 2.97 to 3.87, just missing the start of B grades at 3.0 and not reaching the A grade equivalent. The outliers are also rare at the LRW GPA of 4.3, with twelve students who earned LRW GPAs equivalent to an A+ grade. There, the non-LRW grades have a slightly tighter range, from approximately 3.01 to 3.89.

At the opposite end, the outliers are more extreme and varied. For example, there were five students at the LRW GPA of 2.33, equivalent to a C+ grade. These students' GPAs are plotted in the second column from the left of

the chart; the non-LRW GPAs range from approximately 1.89 to 2.92, from just under the equivalent to a C and not quite reaching the equivalent of a B. At the marginally higher LRW GPA of 2.495, there are nine students, and there is one student with an LRW GPA of 2.5. These ten students are combined in the column third from the left in Figure 1. Together, these ten students' LRW GPAs are equivalent to falling between the equivalents for a B- and a C+. For this small set of students, the non-LRW GPAs range from approximately 2.09 to 3.53, equivalent in range from a solid C to falling between B+ and A-. In this group of ten students, there is a distinct outlier with a non-LRW GPA of 3.53. Removing this outlier, the non-LRW GPA range is narrowed to 2.09 to 3.0 for the LRW GPA of 2.5, placing all but one of these students below the B+ curve. There was also one student with an even lower LRW GPA of 2.165 who managed to earn a non-LRW GPA of 3.15, illustrated by the single data point in the first column.

To more carefully analyze the data and look for correlation, the data was broken down into narrower slices of LRW high performers and LRW low performers. There are eighty-seven LRW high performers, defined as students with combined LRW GPAs⁴³ between 3.665 (rounded up to 3.67 for the purposes of this data analysis) and 4.33. There are sixteen LRW low performers, defined as students with combined LRW GPAs below 2.66, ranging from 2.165 to 2.5. Analysis of these data subsets yielded even stronger relationships in student performance. For each subset, I compared the LRW GPA to cumulative graduation GPA⁴⁴ and to non-LRW first-year GPA⁴⁵ and report the results below.

There are many students left out of this narrower view: 103 are included and 277 are excluded. The 277 students not included here represent a wide range of performance, from 2.67, equivalent to the low B range, to 3.66, equivalent to an A-. Though this group of mid-range performers is out of

⁴³ LRW Combined GPA is the result of a student's fall LRW grade and spring LRW grade. They are equally weighted at two credits each.

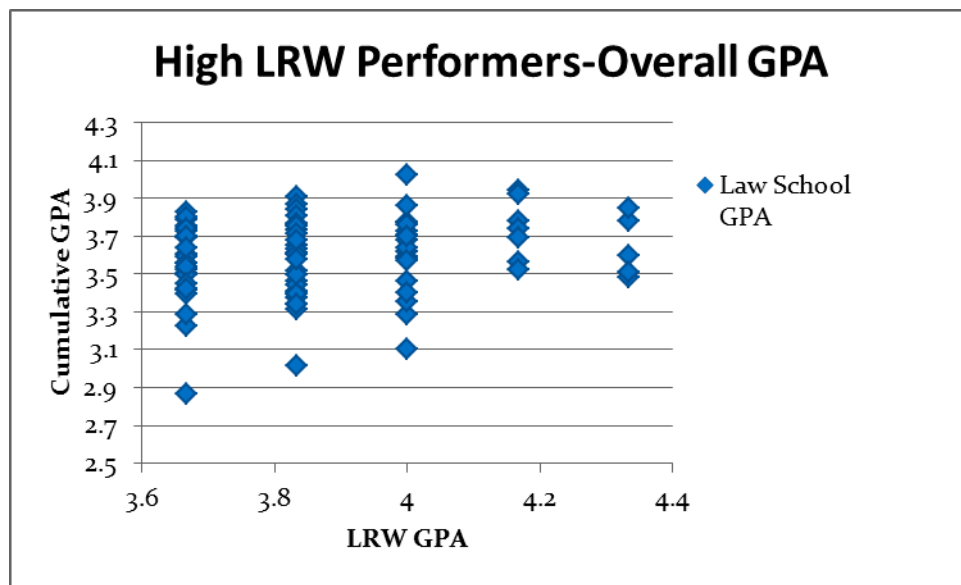
⁴⁴ Graduation cumulative GPA is a complete GPA, including LRW grades.

⁴⁵ Given the data, it was possible to separate out the LRW grade contribution to the 1L fall and spring semester cumulative GPAs, but it was not possible to separate out the LRW course grades in the cumulative at graduation. The data sets did not contain credit hours per year and without that information, the LRW grades' contribution to the overall graduating GPA could not be extracted.

scope of this article, future research is warranted to look for additional patterns within this group, if any. It may be that there is just too much variation within this mid-range group to determine any actual results. The potential for variation is what led me to work with the narrower slices of data.⁴⁶ Those results are reported below, starting with the high performers.

1. High LRW performers are high law school performers.

Figure 2. Comparison of High LRW Performers Combined LRW GPA to Graduation Cumulative GPA.



For high performers, the average cumulative GPA at graduation was 3.59, falling between the equivalents of a B+ and an A-. A fairly low standard deviation indicates the consistency of the data, with 0.209 for the graduation cumulative.⁴⁷ The high performers also had a relatively low occurrence of outliers, further demonstrating the consistency of performance between LRW and throughout law school. Within this group of high performers, as the LRW GPA increased, the graduation cumulative GPAs increased, though that pattern fell off once the GPAs were over 4.0.

⁴⁶ I also acknowledge Steve Schooner’s advice on how to work with the data. He suggested working with narrower slices of data rather than facing the noise in the middle. I plan to face the noise in a future project.

⁴⁷ Data summary statistics on file with the author.

For the twenty-five students with an LRW GPA of 3.67,⁴⁸ illustrated by the first column from the left, the lowest graduation cumulative GPA was 2.87 and the highest was 3.79, a range of .92. Within the range for these twenty-five students, by far most graduation cumulative GPAs were between 3.4 and 3.8, and the 2.87 is an outlier. The thirty-one students with an LRW GPA of 3.83 and 3.835 (grouped together in the second column from the left in Figure 2), also had a relatively low graduation cumulative GPA outlier at approximately 3.01. Beyond this outlier, however, almost all the graduation cumulative GPAs for this group fell between 3.33 and 3.80, a very strong GPA range.

At the LRW GPA of 3.995, rounded to 4.0 for the purposes of this data analysis, and LRW GPA of 4.0, there are nineteen students. These LRW GPAs are combined in the middle column of Figure 2. Within this group, the graduation cumulative GPAs ranged from approximately 3.10 to approximately 4.02, for a total range of .92 (the same total range of graduation cumulative GPAs for the students with an LRW GPA of 3.67). This group of LRW GPAs also had two outliers: one at the high-end, approximately 4.02; and the other at the low end, approximately 3.10. Most of the graduation cumulative GPAs for this group, however, bunch together between approximately 3.6 and 3.8. This is an even stronger graduation cumulative GPA range than the students with LRW GPAs at 3.67.

At the very top, represented by LRW GPAs of 4.165 to 4.33, there are twelve students, seven students with an LRW GPA of 4.165 and five students with an LRW GPA of 4.33. As indicated by the two columns furthest to the right, as the LRW GPA increases above 4.0, there is only one graduation cumulative GPA below 3.5, and that just barely at approximately 3.48. The remaining eleven students with at least one A+ grade in LRW had graduation cumulative GPAs between approximately 3.56 and 3.94, a relatively tight range of .38. Perhaps surprisingly, not one of these students with the highest LRW GPA had a 4.0 or higher graduation cumulative GPA. Instead, the rare over-4.0 graduating cumulative GPAs—there were only two in the 2011 graduating class—belonged to a student who earned an A- and an A+ in the two LRW courses and to a student who earned an A- and a B+ in the two LRW courses.

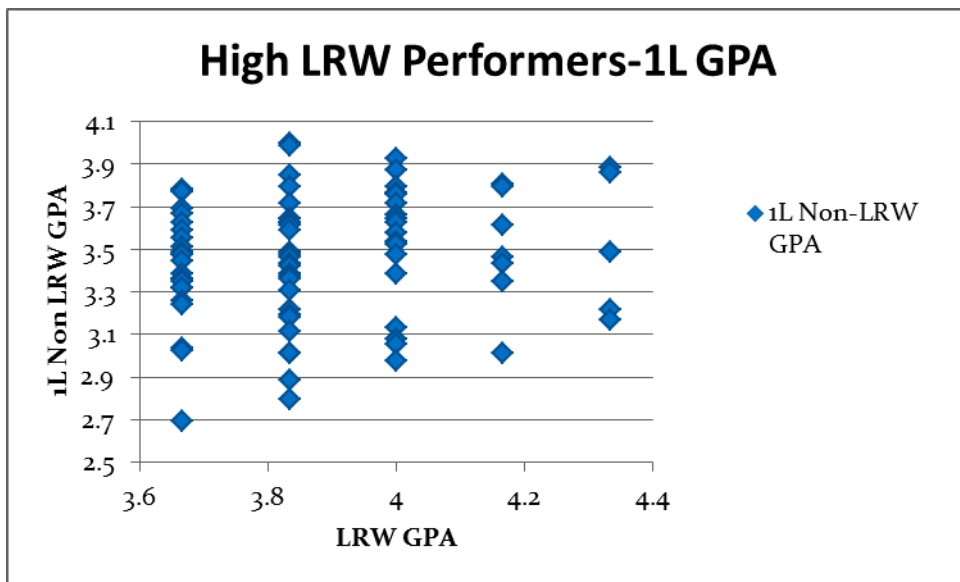
⁴⁸ GPAs are rounded to the second decimal place, unless otherwise indicated.

The data thus establishes that LRW high performers are high law school performers. As LRW GPAs increased, the strength of academic performance measured by graduation cumulative GPAs also increased.

2. High LRW performers are also high first-year performers.

The data for high performers is similarly strong in establishing a relationship between high performance in LRW and high performance in first-year non-LRW courses. Within the group of LRW high performers, the average GPA for the first-year non-LRW courses was 3.467. A fairly low standard deviation indicates the consistency of the data, with 0.287 for the first-year non-LRW course GPA.⁴⁹ As compared to the data above that focused on graduation cumulative GPA in relation to LRW grades, there is more variation in the first-year non-LRW GPA data, with wider ranges of non-LRW GPAs to LRW GPAs and bigger gaps between data points within particular columns of data. Despite the wider ranges and larger number of outliers, however, there is still a relationship favoring high performance in non-LRW courses for these LRW high performers.

Figure 3. Comparison of High LRW Performers Combined LRW GPA to First-Year Non-LRW GPA.



⁴⁹ Data and statistical analysis on file with the author.

The first column from the left represents the non-LRW GPAs for the twenty-five students with an LRW GPA of 3.67. The range of non-LRW GPAs was approximately 2.69, equivalent to between a B- and a B, to 3.79, equivalent to between an A- and an A. The majority of students in this first column had a non-LRW GPA between 3.3 and 3.8, but there were three clear outliers—two at approximately 3.04 and one at 2.69. Thus, in comparison to the relationship between LRW GPA and cumulative graduation GPA, the relationship between LRW GPA and non-LRW GPA is slightly weaker. For graduation cumulative GPA, none of the high performers at 3.67 had a GPA as low as the lowest here at 2.69. Eliminating this outlier, however, the remaining non-LRW GPAs ranged similarly to the cumulative graduation GPAs, with the bulk of GPAs between 3.4 and 3.8.

In the column second from the left in Figure 3 are the students with an LRW GPA of 3.83 and 3.835. This group of thirty-one students represents the deepest range of non-LRW GPAs, ranging from approximately 2.79 to 4.0, and includes the most variation among GPAs within this range, indicated by the long column of data, with a full range of 1.21. There is significant bunching between 3.4 and 3.7, but the non-LRW GPAs cover the full range between 2.79 to 4.0 with only narrow gaps between data points. This is different from the graduation cumulative GPAs for this group of high performers, where all but one outlier fell between approximately 3.5 and 3.8. The broader range of non-LRW GPAs and lower non-LRW GPAs may indicate that high performers continue to improve over time, resulting in higher and more-closely grouped GPAs by the end of the third year of law school.⁵⁰

At the LRW GPAs of 3.995 and 4.0 (in the third column from the left in Figure 3), the nineteen students' non-LRW GPAs ranged from approximately 2.97 to 3.93 for a total range of .96. Most of the non-LRW GPAs for this group fell within the smaller range of approximately 3.38 to 3.93, almost half the total range with a .55 difference from top to bottom. Treating the four non-LRW GPAs at 3.13 and below as outliers seems inconsistent with the bunching of those four students, but there is a significant gap between those four and the rest of the students here.

⁵⁰ See *infra*, part II.B, for results comparing LRW performance from fall to spring.

At the very top, the twelve students with LRW GPAs of 4.165 to 4.33 (illustrated in the two right-most columns in Figure 3) had non-LRW GPAs that ranged from 3.01 to 3.88. Most of the non-LRW GPAs fell between 3.35 and 3.88, but there is more variation among the non-LRW GPAs compared to the graduation cumulative GPAs, with larger gaps between data points. This group of students is small, making it difficult to draw any conclusions particular to this group. Still, as a whole, the data indicates LRW high performers are high performers in the first-year non-LRW courses.

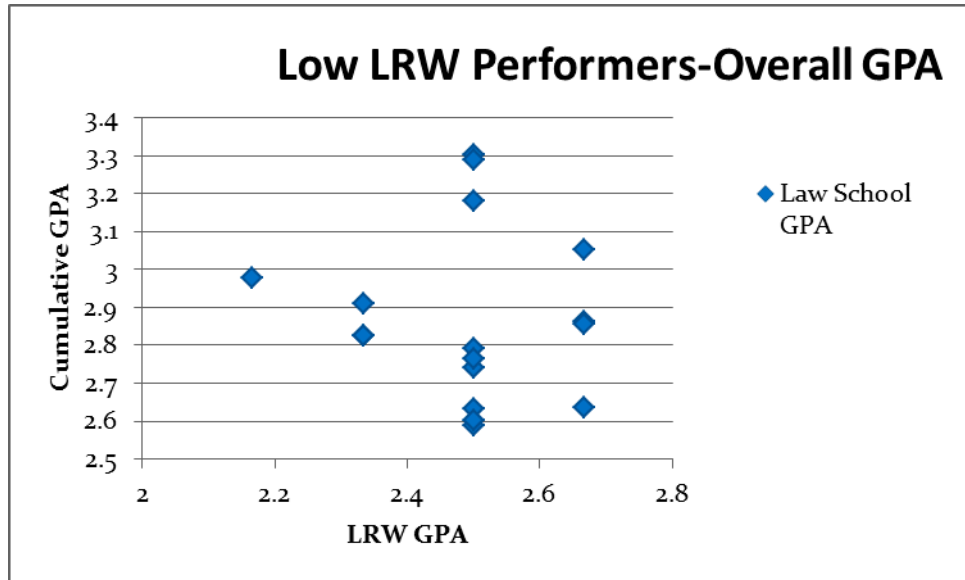
3. Low LRW performers are low law school performers.

Taking another slice of the data, this time at the low end, yields further indication of the relationship between performance in LRW and in other law school courses. Just as high LRW performers generally have academic success across the board, low LRW performers generally experience academic shortfalls. Here, low performers are defined as students earning a grade of B- or below in one or both semesters of LRW.

There are sixteen students in this low LRW performer group. In this small set of low performers, the average GPA at graduation was 2.87 and the average in the first year non-LRW coursework was 2.74, both falling solidly between the numerical equivalents of a B- and B. The data supports the relationship between low LRW performance and low performance throughout law school even though the data subset is much smaller than the high LRW performers.⁵¹

⁵¹ The standard deviation was higher for this slice of the data with 0.225 for the graduation cumulative GPA and 0.358 for non-LRW first-year coursework. Statistical evaluation on file with author.

Figure 4. Comparison of Low LRW Performers Combined LRW GPA to Graduation Cumulative GPA.

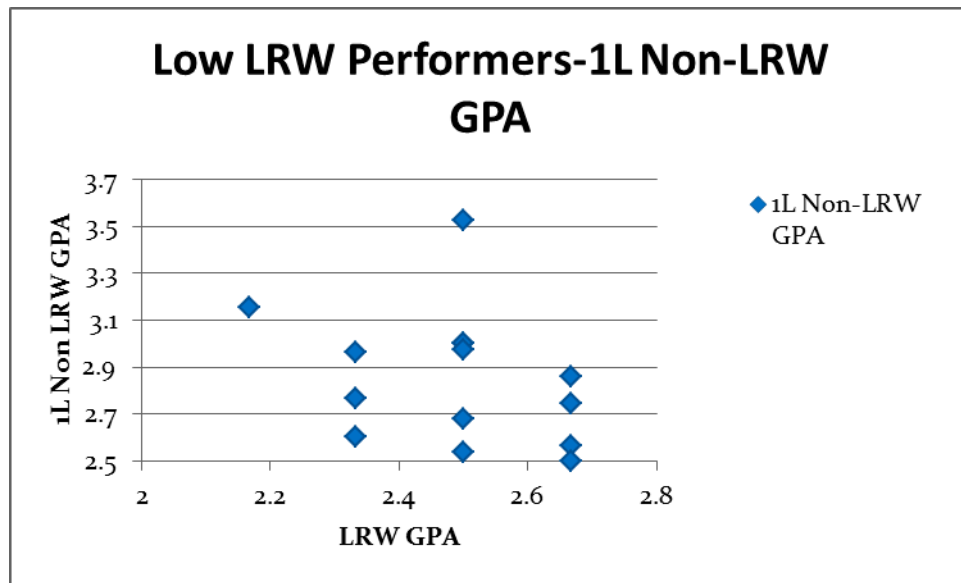


Unlike some of the high performers in LRW who had much lower graduation cumulative GPAs compared to their LRW GPAs, low performers did not experience as drastic differences in performance. In fact, the highest graduation cumulative GPA for a LRW low performer was 3.30, falling between the equivalents for B and B+, at the higher end of this range.

For the LRW GPAs below 2.4, illustrated in the two left-most columns in Figure 4, the three students had graduation cumulative GPAs ranging from 2.82 to 2.97. In other words, no low performer with a LRW GPA below 2.4 graduated with a cumulative GPA of 3.0 or higher, placing these three students well behind the B+ curve. The third column from the left represents the nine students with an LRW GPA of 2.5, equivalent to between a C+ and a B-. This group of students had a wide range of cumulative GPAs, as low as 2.59 and as high as 3.30, for a total range of .71. The cumulative GPAs are spread out, but appear in two groups, with three between 3.01 and 3.30 and six between 2.59 and 2.79. And finally, there are four students with an LRW GPA of 2.67, with cumulative GPAs ranging from 2.64 to 3.05, a total range of .41. Despite the small data subset, one thing is clear: a low LRW performer had no chance of graduating with a GPA above 3.30, falling short of even the law school curve at a B+ or 3.33.

The low LRW performers performed marginally better when focused on only their first-year non-LRW courses, as illustrated in Figure 5.

Figure 5. Comparison of Low LRW Performers Combined LRW GPA to First-Year Non-LRW GPA.



In this narrower view, one outlying low performer had a non-LRW GPA at 3.53, significantly higher than all the other non-LRW GPAs and higher than the graduation cumulative GPAs described above. The highest non-LRW GPA for a LRW low performer was just above 3.5, still outside the A-range falling between B+ and A-. That means for both graduation cumulative GPA and first-year non-LRW GPA, not one LRW low performer earned a GPA in the A-range. The low end here was also lower than the graduation cumulative GPAs for these students, with a 2.56 non-LRW GPA for one low LRW performer. All but two of the low LRW performers had non-LRW GPAs ranging from 2.56 to 3.0. This range, 2.56 to 3.0 for most of the LRW low performers is slightly weaker than the range for graduation cumulative GPA when setting aside the outliers, 2.63 to 3.05.

Thus, weak LRW performance means weak academic performance in the first year non-LRW courses. The differences between first-year non-LRW GPAs and graduation cumulative GPAs for these low performers suggests that

low performers make some improvements over time, though these improvements are very small.⁵²

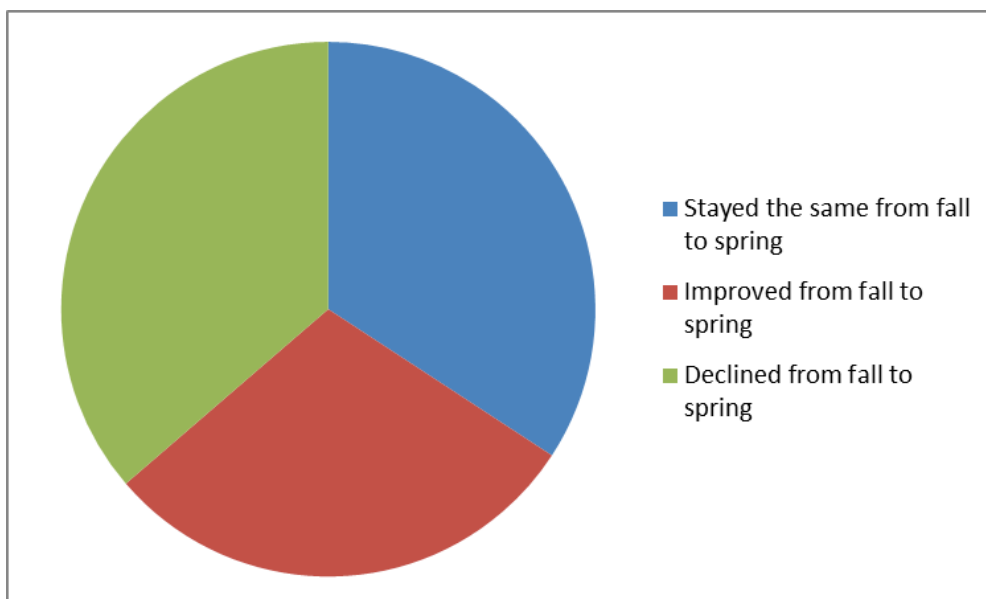
In looking at these two subsets of the data, high and low LRW performers, there is an unquestionable correlation to similarly high or low performance in the first-year non-LRW coursework as well as in a student's law school academic career as calculated by the graduation cumulative GPA. In thinking about how these groups of students were defined, by their LRW grades, I took another look at the data to understand whether and how students' LRW grades varied from semester to semester. For example, for the LRW high performers, many of them earned A-range grades both semesters. That raised the question of whether the combined LRW GPA predicted success in law school or whether just the first semester could predict success. I also questioned how much of a chance students had to improve from one semester to the next. Anecdotally, I know students do improve from fall to spring, and sometimes significantly, but I wanted to explore whether that was rare or the norm. As it turns out, there is a lot more movement among LRW grades than I anticipated. In the next section, I report the results of a comparison in LRW grade from fall to spring.

B. Static, Improved, or Declined LRW Performance During the First Year

Having identified a correlation between high and low LRW performance and high and low non-LRW performance in the first-year and beyond, I now take a different look at the complete data set. In this section, I specifically focus on the relationships in performance from fall to spring. The relationships between fall and spring grades are defined in three ways: **static** for students earning the exact same grade both semesters, **improved** for students earning at least one-third grade higher in the spring than in the fall, and **declined** for students earning at least one-third grade lower in the spring than in the fall. Based on the theory that students improve their writing and analysis skills over time, I expected there to be a large group of students in the improved category. Recognizing the parameters of the curve, I knew student improvement would be limited, but I was surprised by the results.

⁵² As anyone who has tried to raise a low GPA knows, it is extremely difficult and despite academic success in multiple semesters, the cumulative GPA increases infinitesimally slowly.

Figure 6. Comparison of Fall to Spring LRW Grades per Student.



As illustrated in Figure 6, the largest group was the declined group; 36.32% of the students experienced a grade decline from fall to spring. The number of students experiencing a decline in LRW grade from the fall to the spring was surprising, given the generosity of the curve and the general sense that students improve their writing over time. Of course there are differences between predictive and persuasive writing and a student could be stronger at predictive writing. In the spring semester, there is an oral argument component that counts as a small percentage of the final course grade; some students' decline in LRW grades may have been attributed to poor performance on the oral argument, a new and often scary experience, even for strong writers.

Students earning the same grade in both semesters of LRW, the static group, made up the second largest group at 34.21% and students improving their LRW course grade from fall to spring made up the smallest group at 29.47%. Together, 63.68% of students did as well or better from fall to spring.

Figure 7 reports the grade variations within each group. As illustrated in Figure 7, the declined group demonstrated the most variation in grade changes, and more than what would be expected based just on the larger size of the group. In the declined group, there were nineteen grade combinations ranging from A+ to A, down to C+ to C, with even further declines to a C-

after a B was earned in the fall. For the static group, there were seven possible combinations ranging from two A+ grades to two C+ grades. For the improved group, there were twelve letter grade combinations ranging from A to A+ at the high end and from C+ to B- at the low end. There were no LRW grades below a C+ in the fall semester.

Figure 7: Grade Variations within Static, Improved, and Declined Groups.

Static	Number of Students		Improved	Number of Students		Declined	Number of Students
A+/A+	5		A/A+	3		A+/A	4
A/A	14		A-/A+	3		A+/A-	2
A-/A-	24		A-/A	16		A+/B+	3
B+/B+	47		B+/A	16		A+/B	1
B/B	33		B+/A-	27		A/A-	12
B-/B-	4		B/A	2		A/B+	8
C+/C+	3		B/A-	6		A/B	3
			B/B+	24		A-/B+	24
			B-/A-	1		A-/B	7
			B-/B+	6		A-/B-	1
			B-/B	4		B+/B	38
			C+/B-	4		B+/B-	9
						B+/C+	1
						B/B-	12
						B/C+	4
						B/C-	2
						B/C	1
						B-/C+	5
						C+/C	1

In this section, I report the detailed results for the three subsets: static, improved, and declined.⁵³

⁵³ Though out of scope for this article, analyzing the data for similar static, improved, and declined performance in non-LRW first-year courses and throughout law school could shed further light on how a change in LRW performance may have a broader impact than just the LRW course grade.

1. Static Performance

The 130 students with static performance from fall to spring are illustrated in Figure 8. The chart demonstrates the strength of the law school curve with the highest point at the B+ mark, as well as indicates that within the group of static performers, B+ grades were the most common.

Figure 8: Static Performers by Letter Grades Earned.

For the static performers, forty-seven students, or 36.2%, earned a B+ grade both semesters. Of the remaining static performers, five students, or 3.8%, earned an A+ each semester; fourteen students, or 10.8%, earned an A each semester; twenty-four students, or 18.5%, earned an A- each semester; thirty-three students, or 25.4%, earned a B each semester; four students, or 3.1%, earned a B- each semester; and three students, or 2.3%, earned a C+ each semester. In total, forty-three students earned matching A-range grades both semesters; eighty-four earned matching B-range grades, and three earned matching C+ grades.

2. Improved Performance

The improvement in grades from fall to spring yields a different picture.⁵⁴ Figure 9 shows the improvement by one-step in grade (e.g., B+ to A-), reflecting the seventy-eight students who improved their LRW grades by one step from fall to spring. The improvements range from C+ to B- all the way up to A to A+. The most common improvement was from B+ to A-, experienced by twenty-seven students, or 34.6% of the improved group. The next most common improvement was from B to B+ with twenty-four students, or 30.8%. The heavy concentration of improvement around B+ again reflects the law school curve and the more generous LRW curve, in addition to students' likely improvement in their academic work.

Figure 9: One-step Improvement in LRW Grade Fall to Spring.

There were very few improvements in the B- to B and C+ to B- categories; only four students managed an improvement from C+ to B- and another four managed an improvement from B- to B. At approximately 5% of

⁵⁴ In addition to the one-step and two-step improvements illustrated here, there were three students with a three-step improvement from fall to spring. Because there were so few, I did not plot these improvements. There were two students with improvement from B to A and one student with improvement from B- to A-, both significant jumps in performance.

the total for each of these low-end grade improvements, students earning grades below B- in the fall semester had a low likelihood of improvement, suggesting a poor first semester of LRW may be almost insurmountable.

Taking the improvements out to two steps, for example from B+ to A, the data demonstrates the difficulty in earning a two-step improvement, further indicating the significance of high performance in the first semester. Figure 10 illustrates the thirty-one students in this two-step improvement group.

Figure 10: Two-step Improvement in LRW Grade Fall to Spring.

Again, as could be expected based on the curve, the bulk of the improvements are around the B+ grade with over half the two-step improvements from a B+ to an A. There were six students, or 19.4% of the two-step improvers, who improved from B- to B+, and another six students improved from B to A-. There were only three students who improved from A- to A+. The LRW grading parameters limit the number of A+ grades that may be awarded, making the move from A- to A+ difficult both academically and restricted by the limits of the curve—in other words, because so few students can earn a

grade of A+, the students at A- in the fall have a smaller opportunity to earn two steps higher without even considering their actual coursework.

At the low end, despite the greater margin for improvement, the numbers were fairly low. No students with C-range grades in the fall achieved a two-step improvement from fall to spring, which again highlights the significance of earning a grade that low in the fall.

3. Declined Performance

When looking at the data for students who declined from fall to spring, the results are similarly concentrated around the B+ curve, and there are more students with a one-step decline than with a two-step decline.

Figure 11: One-step Decline in LRW Grade Fall to Spring.

There were ninety-six students with a one-step decline from fall to spring. Within this subset of the data, the largest group was thirty-eight students, or approximately 39.6%, who declined from B+ to B. This is a significant drop considering the generosity of the LRW curve and demonstrates that these students moved to relative below-average performance. The next largest

decline was twenty-four students, or 25%, from A- to B+. The remaining one-step declines were relatively small groups: four students declined from A+ to A, twelve students from A to A-, twelve students from B to B-, five from B- to C+, and one from C+ to C.

As illustrated in Figure 12, the results for the thirty students with a two-step decline were a bit different because there were two spikes in the chart. The two spikes show that eight students, or approximately 26.7%, declined from A to B+, and nine students, or 30%, declined from B+ to B-. These declines are significant, taking students from high academic achievement to average in the decline from A to B+, and taking students from right in the center of the curve, or average, to below average performance.

Figure 12: Two-step Decline in LRW Grade Fall to Spring.

There were also students who declined even further, with three-step declines and even four-step declines. Unlike the group of students with three-step improvement, which was tiny with three students, there were nine students with a three-step decline from fall to spring. Moving from the top to bottom, there were three declines from A to B, one from A- to B-, three from

A+ to B+, one from B to C, and one B+ to C+. These are all harsh drops, but even worse were the two four-step declines, from B to C-.⁵⁵

Thus, even with a majority of students in the static and improved performance groups, the declined group stands out as the largest single group. Students in the declined group had both lower performance and decreased more than the improved group of students increased their grades. This again indicates the trouble with low performance in LRW; if a student performs low in the first semester and a large number of students see a decline in their performance from fall to spring, these fall semester low performers potentially have even more to lose.

C. Changing the Viewpoint: From GPA to LRW Grade

In this section, I change the perspective on the data; rather than analyzing it from the perspective of how LRW GPA correlates to semester GPA, I start with the semester GPA data and look at the breakdown of LRW grades within various ranges of GPA for each semester in the first year. The five GPA grade ranges are defined as follows: (1) top range, from 3.67 to 4.33; (2) high range, from 3.34 to 3.66; (3) middle range, from 3.01 to 3.33; (4) low range, from 2.67 to 3.0; and (5) bottom range, from 2.01 to 2.66.⁵⁶

⁵⁵ These significant declines may reflect attendance issues. There is a rule, though often unenforced, for unexcused absences in LRW classes. Because classes meet only once a week, a strict attendance policy governs the course: For each unexcused absence, a student receives a one-third reduction in grade. The data does not include information about which, if any, grades were affected by absences. This is a limitation of the data, and is something to consider in collecting the next set of data, stripping out attendance-influenced grades.

⁵⁶ For the first-year GPAs, there were no GPAs below 2.01.

Figure 13: GPA Ranges and Number of Students within Each Range per Semester.

GPA Range	Fall Semester	Spring Semester	Change
3.67-4.33: TOP	68	59	-2.4%
3.34-3.66: HIGH	112	98	-3.7%
3.01-3.33: MIDDLE	120	133	+ 3.4%
2.67-3.0: LOW	61	63	+0.5%
2.01-2.66: BOTTOM	19	27	+2.1%
Total	380	380	

As described in detail below, the data demonstrates that as GPA ranges decrease, the LRW grades decrease, and the most drastic differences are at the low and bottom GPA ranges. High GPAs typically correlated to high LRW grades, but there were low LRW grades even within the top and high GPA ranges.

Starting with the fall semester top-range students, Figure 14 shows the breakdown of these sixty-eight students with a semester GPA between 3.67 and 4.33. Of this group, forty-two, or approximately 61.8% percent, earned an A-range grade in LRW: five A+ grades, thirteen A grades, and twenty-four A-grades. This is the highest percentage of A-range grades out of all the GPA ranges. Adding the nineteen students who earned a B+ in the fall semester of LRW, almost 90% of students with GPAs in the 3.67–4.33 range earned a grade of B+ or higher in the fall semester of LRW. At the low end, only seven of these top-range students earned an LRW grade below the B+ curve, a mere 10.3%.

Figure 14: LRW Grade Distribution for Fall Semester GPA Top Range, 3.67–4.33.

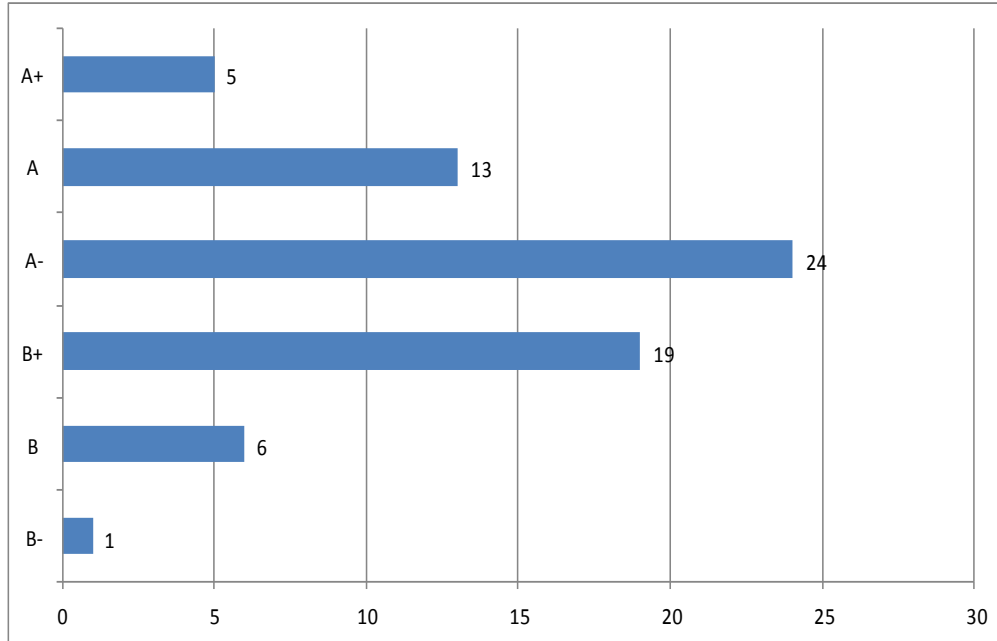


Figure 15 illustrates the LRW grade distribution for the high-range group of 112 students with GPAs between 3.34 and 3.66. Similar to the top-range GPA students, most of these high-range students earned a B+ or above in LRW. However, there is already evidence of decreasing LRW performance in this weaker, though still academically strong, GPA range. Compared to 61.8% A-range grades for the top-range GPA students, only 44.6% of the high-range students earned A-range grades in LRW. The percentage of B+ LRW grades for the high-range students was 33.9%, higher than the 27.9% B+ grades in the top range. Together, the B+ and all A-range LRW grades made up 78.6% of the high-range student group, over 10 percentage points less than the B+ and higher LRW grades for the top-range students. For the top-range GPA students there were only seven LRW grades below B+, or 10.3%, but in the high range, there were more than double the number of LRW grades below B+; there were twenty-four students with LRW grades below B+, or 21.4%. Thus, at even one GPA range apart, there are significant decreases in LRW performance, with fewer top grades and more low grades.

Figure 15: LRW Grade Distribution for Fall Semester GPA High Range, 3.34–3.66.

At the middle-range GPA group, ranging from 3.01 to 3.33, almost half of the 120 students in this group earned a B+ in LRW, as illustrated in Figure 16. Following the trend in decreasing A-range grades from the top to high ranges, the middle-range students earned even fewer A-range grades in LRW. For the middle-range GPA students, 25.8% earned an A-range grade. This 25.8% is significantly smaller than the high-range GPA students with approximately 44.6% A-range grades and the top-range GPA students with approximately 61.8% A-range grades. The 25.8% reflects the downward trend from one GPA range to the next.

Figure 16: LRW Grade Distribution for Fall Semester GPA Middle Range, 3.01–3.33.

This middle-range GPA group is also unique because of the 47.5% of students who earned a B+ in the fall semester. In the top and high GPA ranges, no single grade reflected that high a percentage of the students. In the top range, the largest percentage was 35.3% at A-, and in the high range, the largest percentage was 33.9% at B+. Of course part of the explanation for this large number of B+ grades in the middle range is the law school curve, and the generous LRW curve allowing for more B+ grades than other law school courses. But the extremely high percentage of B+ LRW grades for this group of middle-range students is notable because the GPA range includes grades between B and B+, illustrating that for many students in this range, their LRW performance was higher than their GPA (indicating that they earned lower grades in other first-year courses as compared to LRW).

At the next step down in GPA range, the low range at 2.67 to 3.0, there were sixty-one students. Here, the likelihood of an A-range grade in LRW was exceedingly small. Following the trend in decreasing number of A-range LRW grades as the semester GPA ranges decrease, only seven low-range students, or 11.5%, earned A-range grades in LRW. And within that group of seven, five were the lowest A grade available, A-. Within the low range, there were twenty-three B grades; at 37.7%, this is significantly more B grades than

in the top, high, and middle ranges. In fact, combined, the three higher ranges had only 17.7% B grades. This large group of B grades in the low-range group reflects the ongoing downward trend in performance; as GPA decreases, so does LRW grade.

Figure 17: LRW Grade Distribution for Fall Semester GPA Low Range, 2.67–3.0.

The results are even starker for the bottom-range GPA students. At this GPA range, from 2.01 to 2.66, there were nineteen students. Of these nineteen students, not one earned an A-range LRW grade, and most of these students, 84.2%, earned an LRW grade of B or below. Like the low-range GPA students, bottom-range GPA students earned mostly B grades in LRW. With not even a single A-range grade in LRW for this bottom-range group, the trend toward weaker LRW performance as GPA decreases is further cemented.

Figure 18: LRW Grade Distribution for Fall Semester GPA Bottom Range, 2.01-2.66.

With a clearly established correlation between fall semester GPA range and fall semester LRW grade, and specifically, correlative decreases in each, I now turn to the spring semester data. Because the spring semester presents an opportunity for improvement as students adjust to law school, the data is presented here in comparison to the fall. The results for the spring, perhaps reflecting this experience factor, are a bit different from the fall. Moving again from the top range to the bottom, this next set of charts illustrates the LRW grade distribution within each GPA range for the spring semester.

Beginning with the top-range GPA group, there were fewer students in this range compared to the fall; there were 68 students in this GPA range in the fall, but only 59 in the spring.

Figure 19: LRW Grade Distribution for Spring Semester GPA Top Range, 3.67–4.33.

As illustrated in Figure 19, like the fall semester top-range GPA students, the spring semester top-range GPA students earned mostly A-range LRW grades, but unlike the fall, here there were more B+ LRW grades than there were A-LRW grades. Almost a third, 30.5%, of these top-range GPA students earned a B+ in LRW. Another 61.0% earned A-range grades, and like the fall, most of these A-range grades were A- grades. This percentage of A-range grades for the spring was almost the same as the fall percentage of A-range grades—61.8%—for students in the top range. Also like the fall, which had almost 90% of the students in this range with an LRW grade of B+ or higher, in the spring, approximately 91.5% of the top-range GPA students earned an LRW grade of at least B+. The floor also came up; in the fall, there were six B grades and one B- grade in this top-range GPA group, representing 10.3% of the total, but in the spring, there were only four B grades and one B-, consisting of 8.5% of the students in the top range.

Figure 20: LRW Grade Distribution for Spring Semester GPA High Range, 3.34-3.66.

Also similar to the fall semester data, in the spring, the ninety-eight students in the high-range GPA group earned mostly B+ LRW grades. Though B+ grades made up the largest single grade group at 31.6%, just over half, or 51.0%, of the students in this high-range group earned A-range grades for the spring semester of LRW. That percentage is larger than the percentage of A-range grades for this GPA range in the fall; in the fall, 44.6% of this high-range GPA group earned A-range grades in LRW, indicating stronger performance in LRW in the spring for this group of high-range GPA students.

Similar to the differences between the top and high GPA ranges in the fall, there are signs of weaker LRW performance from the top to the high ranges in the spring. Approximately 18.4% of the high-range GPA students earned LRW grades of B or B- in the spring, but only 8.5% of the top-range GPA students earned LRW grades this low. In addition to having more low-end LRW grades within this GPA range in the spring, the difference in A+ grades from the top range to the high range also indicates a decline in LRW performance. Approximately 15.3% of the top-range GPA students earned an A+ in LRW, but only one student in the high range earned an A+, approximately .01%. This difference in A+ grades was more pronounced in

the spring than in the fall. In the fall, the decline in A+ grades was only two percentage points, from 7.4% in the top range to 5.4% in the high range.

Despite some indicators of weakening LRW performance as the GPA ranges decline, the distribution among A-range grades was stronger for the spring semester compared to the fall semester in the high-range GPA group. In the fall, for students in this high range, approximately 14.3% earned an A in LRW and 25% earned an A- in LRW. In the spring, approximately 23.5% earned an A in LRW and approximately 26.5% earned an A- grade. Though the A- percentages were close in fall and spring, there is over a nine-point difference in the A grades from fall to spring.

Figure 21: LRW Grade Distribution for Spring Semester GPA Middle Range, 3.01–3.33.

Like in the fall, most of the middle-range GPA students earned a B+ in LRW for the spring semester. In the spring, however, the percentage was much smaller with approximately 33.1% students earning a B+ in LRW, compared to approximately 47.5% earning a B+ in the fall. Countering this lower number of B+ grades in the spring, there were more grades at B and below for this middle-range group in the spring than in the fall, with 36.1% in the spring and 26.7% in the fall. The larger percentage of low-end grades again

indicates weaker performance as the GPA range decreases. The spring middle-range GPA group included a C+ grade and a C grade for LRW, but the lowest grade in this range in the fall was a B-. On the other hand, there were also more A-range LRW grades in this group of middle-range GPA students; A-range grades for the spring made up 30.8% of the middle-range group, a five percent jump from the 25.8% in the fall.

Figure 22: LRW Grade Distribution for Spring Semester GPA Low Range, 2.67–3.0.

Also similar to the fall semester, most of the low-range GPA students earned a B in LRW at 34.9%. There were similar numbers of A-range LRW grades in this group of low-range GPA students compared to the fall; in the fall the A-range grades made up 11.5% of the LRW grades and in the spring, this group of students had 11.1% A-range LRW grades. There were more students with B- and below LRW grades in the spring. For the fall semester, 15.9% of the low-range GPA students earned a B- or C+ in LRW. Over a quarter, 25.4%, of the low-range GPA students in the spring earned a grade of B- or C+. The increased number of low-end grades again illustrates the declining LRW performance as GPA range decreases, and this gap is furthered here for these low-range students.

Figure 23: LRW Grade Distribution for Spring Semester GPA Bottom Range, 2.01-2.66.

In the spring, there were twenty-seven students in the bottom-range group; approximately 40% more than the number of bottom-range students in the fall. Of the students in this group, only one earned an A-range LRW grade, an A-, unlike in the fall when none of the bottom range GPA students earned a grade above B+. This improvement was an outlier, though. The majority of students in this bottom-range GPA group earned LRW grades of below B. Approximately 55.6% earned LRW grades of B-, C+, C, and even C-. This was the only GPA range to have an LRW grade of C-, the lowest credit-earning grade possible. Even more so than the fall, most of the students in the bottom range, 88.9%, earned an LRW grade of B or below. This was significantly higher than the 73.9% of the bottom-range students in the fall who earned B or below. These extremely low LRW grades and the high percentages of low LRW grades support the trend identified in the fall data.

Unfortunately, even if individual students manage some improvements—and we know 29.47% of them did improve their LRW grade—significant improvement from the low end of the grading scale is nearly impossible. Decreasing non-LRW GPAs from fall to spring mirror declines in LRW grades. Students at the bottom have little chance to move

their way up. On the bright side, the opposite is also true: as GPA range increases from fall to spring, performance in LRW similarly increases. Thus, the correlation between LRW grades and performance outside LRW is further strengthened.

III. Initial Conclusions and Future Research

This study proves what legal writing professors and legal education reformers have known for a long time: legal writing courses are the linchpin of legal education, especially in the first-year curriculum. In *Educating Lawyers*, more commonly known as the Carnegie Report, legal writing courses were identified as “provid[ing] a pedagogical experience that in many ways complements what is missing in the case-dialogue classes that make up most of the students’ first year.”⁵⁷ For example, the report described how in legal writing courses, as students “learn[ed] to analyze facts and construct arguments,” they were also learning “how to strategize as a lawyer would.”⁵⁸ This part—strategizing like a lawyer—is not only critical to students’ success after graduation when they are practicing lawyers, but also during law school this skill benefits students. For example, students perform better on their non-legal writing course exams because of training they received in legal writing courses: recognizing, analyzing, strategizing, and communicating legal arguments. Even though legal writing courses use specific writing assignments as vehicles to teach and develop skills, legal writing courses are teaching much more than how to write a particular assignment for a particular audience. These courses typically reach further to become a “device for developing reflective capacities to do legal research, critique and construct arguments, and draft legal instruments.”⁵⁹ Of course, a lawyer will find these abilities critical to successful practice, but even before practice, legal writing courses are preparing students to exercise these skills on law school exams.

My primary expectations for correlative relationships between performance in LRW courses and performance in non-LRW courses were validated by the data. High performing LRW students are high performing law

⁵⁷ WILLIAM M. SULLIVAN ET. AL., *EDUCATING LAWYERS* 104 (2007).

⁵⁸ *Id.* at 105.

⁵⁹ *Id.* at 110.

students. Low performing LRW students are low performing law students. This makes sense because “[e]valuation and success in nearly all [law school] classes depends on the student’s writing.”⁶⁰ The strong correlative relationship between performance in legal writing and non-legal writing courses is likely a result of the formative and individualized feedback students receive in legal writing courses⁶¹ and what they do with that feedback. Successful law students take the feedback, internalize it, and learn from it; these high performing students develop metacognitive skills in legal analysis and writing.⁶² These students also “understand the environment in which their writing exists to comprehend how and why the discourse is constructed.”⁶³ With that understanding, students can write strong law school exams, just as they write strong memos or briefs in their legal writing courses, because they have well-developed skills in legal analysis and legal writing.

Rarely do students excel at legal writing without any help from their professors; instead, most students’ success in legal writing is directly related to developing their skills in reaction to the formative feedback they receive.⁶⁴

⁶⁰ Susan L. DeJarnatt, *Law Talk: Speaking, Writing, and Entering the Discourse of Law*, 40 DUQ. L. REV. 489, 506. In her article, Professor DeJarnatt discusses legal writing professors’ role of ushering first-year students into the legal writing discourse community in part “by enabling students to talk to each other about their writing.” *Id.* at 489. High LRW performers are likely students who take advantage of peer review and other academically-sound opportunities to engage in discussions with peers about various approaches to legal writing.

⁶¹ SOURCEBOOK, *supra* n. 22, 54–61 (describing various methods and strategies for providing feedback on student papers).

⁶² Metacognition “is the process of ‘thinking about thinking’ and the ability to self-regulate one’s learning with the goal of transferring learned skills to new situations.” Anthony Niedwiecki, *Teaching for Lifelong Learning: Improving the Metacognitive Skills of Law Students Through More Effective Formative Assessment Techniques*, 40 CAP. U. L. REV. 149, 156 (2012) (advocating for “self-assessment portfolios” as a tool for “improv[ing] students’ metacognitive skills”); *see also* Christensen, *supra* n. 6, at 816 (describing how courses that “focus on learning, understanding, and improving” contribute to student success “in that class in particular and in law school overall”). *Id.*

⁶³ DeJarnatt, *supra* n. 60, at 512.

⁶⁴ Formative feedback outside the legal writing classroom has also proved effective in improving student performance on law school exams. *See* Carol Springer Sargent & Andrea A. Curcio, *Empirical Evidence that Formative Assessments Improve Final Exams*, 61 J. LEGAL EDUC. 379, 395 (2012) (reporting results of a study that “formative assessments improved

Through frequent and detailed formative feedback, legal writing professors “identify the strengths and weaknesses in a paper, communicate those strengths and weaknesses in a way that is understandable to the student writer, and suggest ways to improve upon the weaknesses clearly enough that the student can carry out the suggested changes.”⁶⁵ For most students, legal writing is the only course in which they receive this substantial and formative feedback on their writing. Even when students receive feedback on exams, that feedback is often limited to identifying what went wrong rather than how to improve. Feedback on legal writing assignments, however, is designed to “reinforce a student’s ability to use the required analytical skills and [] not simply give the student the ‘answer’ as to the appropriate analysis.”⁶⁶ It is this skill-development focus of legal writing professors’ feedback that makes “some students [] more successful in learning the fundamentals of legal analysis that they need for all courses in the first-year curriculum.”⁶⁷

The opposite is also true; students who do not internalize the formative feedback they receive develop minimal, substandard skills in legal analysis. There are likely a variety of reasons for this, including disagreeing with professors’ feedback, not understanding feedback, or not understanding what to do with feedback. Sometimes these substandard legal writing skills are overcome on non-LRW course exams, such as multiple-choice exams or exams scored by the number of issues addressed. But, as the data indicates, chances are that a student with substandard skills in legal writing will earn low grades in LRW and non-LRW courses.⁶⁸

Looking at grade data is not only fascinating, but it is critical in a time when scholars, educators, and the bar are clamoring for change in legal

performance for a majority of students taking [the course]”); *see also* Andrea A. Curcio, Gregory Todd Jones & Tanya M. Washington, *Developing an Empirical Model to Test Whether Required Writing Exercises or Other Changes in Large-Section Law Class teaching Methodologies Result in Improved Exam Performance*, 57 J. LEGAL EDUC. 195 (2007).

⁶⁵ SOURCEBOOK, *supra* n. 22, at 59.

⁶⁶ *Id.* at 18.

⁶⁷ *Id.*

⁶⁸ As indicated by the data in part II, *supra*, students occasionally earned high grades in non-LRW courses even though they earned low grades in LRW; those are the exceptions, however.

education.⁶⁹ Though the changing economy and evolving world of legal practice are significant factors to consider in developing innovative and responsive change, legal education should take a look inside, using the data about LRW and student performance in law school (which is integrally linked to success in at least initial employment⁷⁰) to drive curricular change.⁷¹

There are several ways law schools could react to the correlative relationship between performance in legal writing and performance in other law school courses. If nothing else, this study should eliminate any suggestions to minimize legal writing courses through a reduction in credits, a change to ungraded credits, or a move toward using adjunct professors over regular faculty.⁷² The data confirms the importance of writing—and good instruction in writing—in the law school curriculum.

⁶⁹ It is critical for law schools to make changes that will reach whatever goals they set rather than put into place wide-sweeping change that fails to solve or partially solve the range of problems facing legal education. Advocates for change offer many ideas, and evaluating those ideas along with empirical data is the best route to achieving successful change. For example, some may suggest that more adjunct faculty is part of the solution to high salaries for tenured professors. *See e.g.*, Bronner, *supra* n.14 (describing an adjunct professor's suggestion that "instead of restricting the number of adjunct lecturers . . . , law schools ought to increase them because they bring real-world examples to students"). There is no doubt practitioner adjuncts have something to offer law students and legal education, but based on my experience and reading thousands of course evaluations, the legal writing classroom is no place for adjuncts. This article does not engage in research on whether students who took LRW with full-time professors fared better than students with adjunct professors, but at least anecdotally, there is support for that hypothesis. I hope to research that particular variable in another article on LRW grades.

⁷⁰ Sander & Bambauer, *supra* n. 1, at 895.

⁷¹ Professor Emily Zimmerman argued for such data-based change in her 2012 article: "Continued empirical research with law students is crucial to ensure that decisions regarding legal education can be informed by evidence. Evidence-based legal education would take existing evidence into account in making decisions about pedagogy and curriculum." Zimmerman, *supra* n. 1, at 366 (citations omitted); *see also* Robbins, *supra* n. 18 (arguing for client-centered curricular reform); Jim Moliterno, *Jim Moliterno Answers Questions on W&L's 3L Program; Supplies Additional Data on W&L*, THE LEGAL WHITEBOARD (Feb. 13, 2013) <http://lawprofessors.typepad.com/legalwhiteboard/2013/02/jim-moliterno-answers-questions-on-wls-3l-program-supplies-additional-data-on-wl.html> (discussing the existence of "empirical evidence that the W&L curriculum reform is engaging students more than the traditional 'no plan' third year curriculum").

⁷² *See supra* n. 69 and accompanying text.

This data may be particularly useful in developing mechanisms for identifying poor performing students early on, and developing an academic support program that specifically responds to students' weak writing skills and how those weak skills correlate to weak performance in law school. Poor performance in LRW almost to a certainty means low performance in other first-year courses, and LRW professors may be able to identify this at-risk group earlier than other professors who do not assess any work product until the final exam. For example, typically students receive interim grades or scores on LRW writing assignments throughout the semester and LRW professors give students their first feedback through these writing assignments. Law schools could offer these poor performers some form of counseling about the likelihood of similar poor performance on law school exams, possibly just to give students the opportunity to adjust their expectations.⁷³

In fact, even just telling LRW students that their performance in LRW is likely a predictor of their performance throughout law school may be helpful in adjusting student expectations.⁷⁴ Of course, some students do manage to excel on the final memo and exams even if they had weak performance in LRW otherwise, but those students are the exception. For many students, a choice to put in less time or effort on an LRW assignment because it is fewer credits compared to their other courses or because it is taught by an adjunct professor, or any other factor that may suggest the course is less important than other courses, is an actual choice. Students may be capable of doing more, but they make a seemingly rational choice to focus their efforts elsewhere. This data may help students better understand what their choices may mean, and in particular, lend support to what their legal writing professors are telling them: it is not a rational choice to do less work in a legal writing course because of the bigger picture ramifications.

⁷³ Zimmerman, *supra* n. 1, at 360 (describing how students earning grades at the low end “do not necessarily believe that their grades are an accurate reflection of their work”).

⁷⁴ Putting students on notice this way may be particularly beneficial to students who earn low grades in LRW. *See id.* at 353 (“The literature suggests that law students’ overly optimistic grade expectations may be one source of students’ distress. As a result, lowering students’ grade expectations might prevent students from feeling disappointed when they receive their grades. According to this line of thought, incoming law students’ grade expectations should be adjusted before students receive their grades in order to mitigate the negative impact of those grades.”).

Finally, the data supports what many legal educators—particularly those teaching legal writing—already know: legal writing courses are critical to students’ success. To support the critical nature of legal writing courses, law schools must devote significant resources to those faculty members teaching the legal writing courses. If law schools do in fact recognize and embrace the correlation between strong legal writing skills and success in law school and beyond, legal writing professors can expect a continued progression in status of legal writing professors and legal writing courses’ station within a law school curriculum.

Of course, there is much more research to do on legal writing course grades and their relationships with various components of legal education. Using the same data, future research could compare the static, improved, and declined LRW grades to the first-year non-LRW GPAs, looking to see whether students experienced similar static, improved, or declined performance. And further, whether improvement in LRW has any longer-lasting effect, such as an improvement throughout the second and third years of law school.

Moving beyond a one-school data set, I would like to get similar data on LRW grades and semester GPAs from other law schools with various staff and curricular approaches to teaching legal writing. Using these additional data sets, research could determine whether there is a correlation between LRW and other first-year courses at other law schools, or whether GW is an anomaly. Particularly given GW’s uniqueness in curve variation, with a LRW curve that is more generous than the curve for other first-year courses, this data could confirm the relationships between LRW and non-LRW courses, or even show a stronger correlation given the same curves for all first-year courses.

A larger data set including other law schools could also be isolated in various ways to determine other potentially useful relationships. Some of the questions to be considered are as follows. Is there a stronger correlation between LRW and non-LRW grades for the first year when all LRW courses are taught by full-time professors? Does it matter if a student had an adjunct professor instead of a full-time faculty member for LRW? Does it make a difference if a student has a first-time teacher for LRW instead of an experienced teacher? Are there signs that LRW courses for more than the typical two credits per semester are stronger indicators of success in other first-year courses? In other words, does more required legal writing

coursework have a positive net-effect on student performance in law school? Are the relationships between LRW grades and other first-year grades stronger or weaker at lower and higher ranked law schools, smaller or larger entering classes, or geographically distinct schools?

Research into other relationships to LRW performance could also be enlightening. For example, do socio or racial factors influence a student's performance in LRW? Though there has been much written on race and legal education, a specific relationship to performance in legal writing courses remains unexplored. What if legal writing pedagogy is less effective for definable groups of students? Or do some students arrive at law school with an advantage based on where they went to college or what they majored in as an undergraduate? Do students with work experience perform better in legal writing courses? Or do students with a gap in education perform weaker in legal writing courses compared to other students? Are there other variables that correlate to performance in LRW?⁷⁵

With answers to these and other questions, legal education can make informed decisions, relying on empirical data to develop responsive strategies. Rather than merely responding to the latest news report or LSAC statistics, law schools should evaluate what is necessary to educate future lawyers. Legal writing is at the core of all things lawyer; thus, in recognition of legal writing's centrality to legal education, reformers should aim for more and better writing instruction to achieve more and better results for students.

⁷⁵ Research into these relationships could build on the research establishing correlative relationships between LSAT scores and academic performance in law school and between undergraduate GPA and law school performance. *See e.g.*, David A. Thomas, *Predicting Law School Academic Performance from LSAT Scores and Undergraduate Grade Point Averages: A Comprehensive Study*, 35 ARIZ. ST. L.J. 1007 (2003). Specifically, further research could determine whether certain undergraduate courses of study, such as one that requires a lot of writing, indicates stronger or weaker performance in LRW. By narrowing in on legal writing courses, there may be even stronger or weaker correlations between LSAT and academic performance.