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PERFORMANCE IN LAW SCHOOL: WHAT MATTERS IN THE BEGINNING?

WENDY LARCOMBE*, PIP NICHOLSON** & IAN MALKIN***

I INTRODUCTION

In an article entitled ‘Performance in Law School: What Matters in the End?’ Richard Ippolito reports on one of the few studies to have investigated factors that might predict students’ academic performance in law.¹ The small US study assessed traditional measures of academic potential, including results on the Law School Admission Test (LSAT) and (Scholastic Assessment Test) SAT scores. It also investigated the predictive value of ‘attributes that typically are unmeasured during the application and evaluation process’.² These attributes were inferred from selected behaviours in law school, including students’ choice to sit in the back of the classroom, to occasionally skip classes, to join the Dean’s Torts class, or to sign on as ‘ready and prepared’ to be called on in class in exchange for a grade point bonus. The attribute measures proved to have predictive power in relation to both first-year law results and final grade point average (GPA). Indeed, Ippolito found that two of the non-traditional measures were ‘as important in the final grade as 10 points in the LSAT score’.³ He concluded that ‘law schools that could successfully identify nontraditional signals of superior performance might gain a dramatic advantage over the competition in terms of the success of their graduates’.⁴ Irrespective of any competitive advantage, a law school could expect to enjoy higher retention and progression rates, and higher rates of student engagement and satisfaction, if it is better able to identify and select students likely to do well in law.

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¹ Richard A Ippolito, ‘Performance in Law School: What Matters in the End?’ (2004) 54 (3) *Journal of Legal Education* 459.

² Ibid.

³ Ibid. These two measures were choosing to sit towards the back of the classroom and missing three out of 14 lectures.

⁴ Ibid 464.

This article offers insight into some of the factors beyond previous academic success that may affect the academic performance of undergraduate law students in Australia.⁵ Several major studies of legal education have been conducted in Australia over the past three decades.⁶ However, these have focused on curriculum and teaching issues. Less is known about the factors that affect academic success in law, and the ways that contemporary students approach and manage the academic demands of studies in law.⁷ This is despite the fact that traditional and anecdotal understandings of law students in Australia are unlikely to be reliable given recent changes in legal education.⁸

This article reports selected findings from a 2007 study undertaken with commencing LLB students at the University of Melbourne Law School. In the first week of classes, students completed a questionnaire about their interests, expectations and attitudes with respect to studying law. At the completion of first semester, results for the first two compulsory law subjects were entered and correlated with the survey data. This article reports on the survey responses of students who achieved very high marks in their first semester, and students who achieved either very low marks or did not complete first semester. Differences were observed in the initial interests, attitudes and expectations of these subgroups. The study thus identified a number of factors that appear to affect law students' first semester academic performance. These factors, which merit more rigorous investigation, include interest in the content and tasks involved in studying law, a realistic understanding of the workload, and academic 'readiness'.

⁵ The measures used to gauge students' attributes in this study are not the same as those developed by Ippolito. In particular, while his study tracked certain student behaviours during semester, the present study captured attitudes, interests and expectations at commencement. It should also be noted that Ippolito's study was conducted with a graduate JD cohort.

⁶ These include the Pearce Report, a follow-up study, and a report commissioned by the Australian Universities Teaching Committee. See Dennis Pearce, Enid Campbell and Don Harding, *Australian Law Schools: A Discipline Assessment for the Commonwealth Tertiary Education Commission* (1987); Craig McInnes and Simon Marginson, *Australian Law Schools after the 1987 Pearce Report* (1994); Richard Johnstone and Sumitra Vignaendra, *Learning Outcomes and Curriculum Development in Law: A Report Commissioned by the Australian Universities Teaching Committee (AUTC)* (2003).

⁷ There is, however, some interesting research on commencing law students' information literacy skills. See Ian Gallacher, "Who are Those Guys?": The Results of a Survey Studying the Information Literacy of Incoming Law Students' (2007) 44 *California Western Law Review* 151; Sandra Meredith, 'First Year Law Students, Legal Research Skills and Electronic Resources' (Working Paper # 42/2006, University of Oxford Faculty of Law Legal Studies Research Paper Series, September 2006).

⁸ Thornton has mapped the ways in which law schools and students' relations with legal education have been significantly reshaped in recent years by factors including: the expanding role for lawyers in the globalised 'new knowledge economy'; the 'massification' and underfunding of higher education in Australia; and the central force of market relations in shaping pedagogical practices and curriculum design. See Margaret Thornton, 'The Law School, the Market and the New Knowledge Economy' (2007) 17 *Legal Education Review* 1.

After outlining the context and method of the study in Parts II and III, the article reports and discusses the key findings on the relation between the academic performance subgroups (Part IV) and students' interests (Part V), expectations (Part VI) and academic readiness (Part VII). In effect, the study was able to identify some of the 'hidden attributes' of successful — and, just as importantly, not so successful — law students. The 'attributes' of the performance subgroups are compared and the implications are considered in Part VIII of the article. It is emphasised that the 'attributes' identified are not fixed character traits: interests, attitudes and expectations can change or be adjusted. Consequently, while the findings of this study might usefully be considered by selection panels, the authors propose that it would also be useful to discuss the attributes of 'successful' law students with all commencing students — for example, through orientation programs and first-year subjects. In this way, the findings of the study may inform efforts to improve first-year students' academic performance, not only to predict it.

II FIRST-YEAR ACADEMIC ACHIEVEMENT

Selection into undergraduate university courses in Australia is generally based on previous academic achievement including university grades if they are available or, more commonly, results from the final years of secondary school.⁹ The efficiency of this method is no doubt attractive to universities and, as Catherine Haigh, Pam Reynolds and Stuart Levy note, the use of de-identified and comparable academic results 'minimises any possible bias in selection'.¹⁰ Most importantly, a number of studies have found a strong correlation between school-level academic achievement and later tertiary success. For example, Kirsten McKenzie, Kathryn Gow and Robert Schweitzer used structural equation modelling to investigate a range of variables associated with academic success in the first year of an Australian university, and confirmed that previous academic performance was the single most important predictor of university academic achievement in both the first and second semesters.¹¹

⁹ These results are converted into a numerical measure or 'entry score' by a range of processes and names: for example, in Victoria, secondary school results for the final years are aggregated and scaled to produce an Equivalent National Tertiary Entrance Rank or ENTER; in NSW and the ACT a Universities Admission Index (or UAI) is produced.

¹⁰ Catherine Haigh, Pam Reynolds and Stuart Levy, 'Who Deserves a Chance? Identifying Talent that Might Otherwise be Lost in University Admissions Processes' (Paper presented at the 10th Pacific Rim First Year in Higher Education Conference, Brisbane, 4-6 July 2007) 2 <http://www.fyhe.qut.edu.au/past_papers/papers07/final_papers/pdfs/4c.pdf> at 4 December 2008.

¹¹ Kirsten McKenzie, Kathryn Gow and Robert Schweitzer, 'Exploring First-Year Academic Achievement through Structural Equation Modelling' (2004) 23 *Higher Education Research & Development* 95, 108. High academic performance in school was predictive of first semester grades at university; first semester grades were then predictive of second semester grades.

Previous academic achievement may be the best predictor of subsequent academic performance. However, it is not consistently predictive. For example, there is some evidence that students' school results can be 'inflated' by attendance at a private (independent) school¹² or by extensive individual coaching.¹³ These findings indicate that school results are unlikely to be predictive of university performance if the same conditions for the students' success at school are not available at university. There is also evidence that the relationship between university entry scores and subsequent university achievement varies across disciplines, and that the relationship is more likely to be positive when the subjects studied in the final year at school are to be continued at university.¹⁴ Even when a relationship has been established between entry scores and university achievement in a particular discipline, it may not apply to all subgroups. For example, Diane Dancer and Patty Kamvounias found that entry scores were an important predictor of males' first-year performance but not of females' performance in an introductory commercial law subject taken as part of an Economics degree.¹⁵

Inconsistencies in the predictive value of university entry scores indicate that previous high achievement is not the only factor affecting achievement in the first year of higher education. Performance at university is known to be affected by a complex mix of factors, in addition to previous achievement, including factors specific but external to the student such as their levels of financial support and commitments to paid work and family care,¹⁶ and subjective or personal factors such as motivation, academic goals and academic-related skills.¹⁷ In high-demand courses like law, where cut-off points or entry scores for selection reflect the limited places available

¹² Ian R Dobson and Eric Skuja, 'Secondary Schooling, Tertiary Entry Ranks and University Performance' (2005) 13(1) *People and Place* 53.

¹³ Diane Dancer and Patty Kamvounias, 'Predicting Success in a First-Year Unit of Study' (Paper presented at the 11th Pacific Rim First Year in Higher Education Conference, Hobart, 30 June to 2 July 2008) <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/content/pdfs/2b.pdf> at 4 December 2008.

¹⁴ Ibid 2; Haigh, Reynolds and Levy, above n 10, 3.

¹⁵ Dancer and Kamvounias, above n 13, 9.

¹⁶ Kerri-Lee Krause, Robyn Hartley, Richard James and Craig McInnis, *The First Year Experience in Australian Universities: Findings from a Decade of National Studies* (Centre for the Study of Higher Education, The University of Melbourne, Final Report, January 2005) 56; George D Kuh, 'What Matters to Student Success in the First Year of University?' (Keynote address to the 10th Pacific Rim First Year in Higher Education Conference, Brisbane, 5 July 2007) slide 6 <http://www.fyhe.qut.edu.au/past_papers/papers07/final_papers/FYE%20Brisbane%20plenary%202007.pps> at 4 December 2008; Mantz Yorke, 'Student Engagement: Deep, Surface or Strategic?' (Paper presented at the 9th Pacific Rim First Year in Higher Education Conference, Gold Coast, Queensland, 12–14 July 2006) 1 <http://www.fyhe.qut.edu.au/past_papers/2006/Keynotes/Yorke.pdf> at 4 December 2008.

¹⁷ Huy Le, Alex Casillas, Steven B Robbins and Ronelle Langley, 'Motivational and Skills, Social, and Self-Management Predictors of College Outcomes: Constructing the Student Readiness Inventory' (2005) 65(3) *Educational and Psychological Measurement* 482, 483; McKenzie, Gow and Schweitzer, above n 11, 108–110.

at a particular institution rather than the academic ability needed to succeed in the course, understanding of these additional factors that affect performance is particularly important — for, while a high level of academic ability appears necessary to do well in law, it is certainly not sufficient. In a university environment, where students are expected to take responsibility for their own learning and achievement, academic performance depends not only on a student's ability to perform well in their selected course, but also on factors such as their motivation and capacity to do so, their application and persistence, self-management skills, and so on.

Academic-performance research has identified a number of student-related psycho-social variables, or constructs, that contribute to the prediction of academic achievement in the first year of university. As Huy Le, Alex Casillas, Steven Robbins and Ronelle Langley discuss, current theories and models of college success in the United States focus on three 'higher order constructs': motivation to achieve, cognitive and academic-related skills, and levels of social support and involvement.¹⁸ Measures of motivation and academic-related skills have been found to be particularly important predictors of student college performance, while social engagement measures have been found to be predictive of persistence and retention in the first year.¹⁹ The performance-related constructs have been tested in the Australian context with slightly different findings.

McKenzie, Gow and Schweitzer's study,²⁰ administered at the Queensland University of Technology, assessed the contribution to student performance of achievement motivation, self-regulatory learning strategies and personality traits. Only the latter two constructs were found to be important predictors of achievement. Specifically, while previous academic performance was the most important variable affecting achievement in the first semester of university, the prediction of students' grades was enhanced by considering a student's self-reported use of effective learning strategies and also particular personality traits.²¹ Students were more likely to achieve higher grades if they reported use of effective learning strategies, such as managing time efficiently, monitoring comprehension, and making connections between readings and lecture material.²² In turn, students were more likely to use effective learning strategies if they were conscientious and valued the learning tasks.²³ Students were also more likely to achieve higher grades if they indicated an 'introverted and agreeable' personality, rather than an 'extraverted and antagonistic' one.²⁴

¹⁸ Le et al, above n 17, 483.

¹⁹ Ibid 484–5.

²⁰ McKenzie, Gow and Schweitzer, above n 11, 95.

²¹ Ibid 108.

²² Ibid 109.

²³ Ibid.

²⁴ Ibid.

It is evident that academic performance research has concentrated on the traits and characteristics of individual students and, in particular, successful students, utilising constructs developed largely within educational psychology. However, student performance is likely to be determined by social, pedagogical and institutional factors in addition to, and interacting with, student traits and characteristics.²⁵ George Kuh, for example, argues that ‘what really matters in college’ is student engagement — broadly, student participation in educationally purposeful activities.²⁶ The importance of this construct is that it investigates not only what students do, but also what institutions do to ‘channel student energy toward the right activities’.²⁷ Once it is understood how institutional practices and policies affect student behaviours and attitudes to learning, they can be purposely redesigned to induce desired behaviours and practices.²⁸

Institutional and pedagogical factors have not been the focus of performance studies within educational psychology to date, perhaps because these factors are more difficult to isolate and compare than individual student traits. In the past, they may also have been regarded as ‘fixed’ or unlikely to change, making it particularly important to understand and identify students who would be likely to succeed ‘despite’ the institutional environment. However, the recent and expanding body of research literature on the ‘first-year experience’ of university students, discussed below, has informed sector-wide changes to practice and policy in Australian higher education. It thus provides an important and complementary source of theory and data on factors affecting first-year achievement, beyond both previous academic achievement and individual student psychosocial variables. As Mantz Yorke contends:

The engagement of students in higher education is influenced by a number of factors – for example, how they finance their studies; how they balance studies and part-time employment; and what they see as their aims in undertaking a programme of study.²⁹

The analysis by Kerri-Lee Krause, Robyn Hartley, Richard James and Craig McInnis of trends over three cycles of national first-year student surveys conducted with Australian university students provides rich information on conditions affecting students’

²⁵ Kuh, above n 16, slides 6–9; Yorke, above n 16, 2–5.

²⁶ Kuh, above n 16, slide 7.

²⁷ Ibid slide 8.

²⁸ See also Yorke, above n 16; Adrienne Kinnear, Heather Sparrow, Mary Boyce and Sharon Middleton, ‘Perceptions of Successful Students: Lessons for the First Year Experience’ (Paper presented at the 11th Pacific Rim First Year in Higher Education Conference, Hobart, 30 June to 2 July 2008) 2 <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/content/pdfs/7a.pdf> at 4 December 2008.

²⁹ Yorke, above n 16, 1.

experience of study and also their academic performance.³⁰ For example, Krause et al found that students who received an average mark of 70 per cent or higher in their first semester of university study ('high achievers') were more likely to rate as important 'intrinsic' reasons for undertaking their course, such as 'studying in a field that really interests me'.³¹ By contrast, students whose average mark in first semester was 60 per cent or below ('low achievers') were more likely to say that their reasons for enrolling were 'improving my job prospects' and 'the expectations of my parents and family'.³² This finding confirms earlier investigations of attrition which have identified poor course choice as a reason for discontinuing studies.³³ 'Good' course choice, or choice of a course 'that really interests me', is likely to be a relevant factor for performance in law, where the prestige of the course or its currency as a broad, general education sometimes attracts students whose interest in law is otherwise limited.

High achievers in the national first-year experience studies were also more likely to find that their university experience met their expectations,³⁴ and to report that they had been coping with the workload over the semester.³⁵ Realistic expectations of the demands and activities involved in a university course of study are known to have an impact on student transition and the first-year experience.³⁶ As Krause et al identify, '[f]irst year students' expectations of what it will be like to be a university student play a determining role in their attitudes towards study and in the quality of their experience'.³⁷ It is also known that 'there is a significant mismatch between commencing student expectations and the actual experiences of university life'.³⁸ This mismatch may affect performance. For example, low achievers

³⁰ Krause et al, above n 16.

³¹ Ibid 13.

³² Ibid.

³³ Mantz Yorke, *Leaving Early: Undergraduate Non-Completion in Higher Education* (1999); Jenny Ozga and Laura Sukhnandan, 'Undergraduate Non-Completion: Developing an Explanatory Model' (2002) 52(3) *Higher Education Quarterly* 316.

³⁴ Krause et al, above n 16, 21.

³⁵ Ibid 57.

³⁶ Karen Nelson, Sally Kift and John Clarke, 'Expectations and Realities for First Year Students at an Australian University' (Paper presented at the 11th Pacific Rim First Year in Higher Education Conference, Hobart, 30 June to 2 July 2008) <http://www.fyhe.qut.edu.au/past_papers/papers08/FYHE2008/content/pdfs/6a.pdf> at 4 December 2008; Cecilia Andrews, 'Early Targeting of First Year Learning Expectations' (Paper presented at the 9th Pacific Rim First Year in Higher Education Conference, Gold Coast, Queensland, 12-14 July 2006) <http://www.fyhe.qut.edu.au/past_papers/2006/Papers/Andrews.pdf> at 4 December 2008.

³⁷ Krause et al, above n 16, 21.

³⁸ Nelson, Kift and Clarke, above n 36, 2; see also Ellen Jansen and Jacques van der Meer, 'Feeling Prepared for University? Perceived Preparedness and Expectations of Prospective Students' (Paper presented at the 10th Pacific Rim First Year in Higher Education Conference, Brisbane, 4-6 July 2007) 3 <http://www.fyhe.qut.edu.au/past_papers/papers07/final_papers/pdfs/1c.pdf> at 4 December 2008.

in Krause et al's study were more likely to have found that the standard of work at university was higher than they expected.³⁹

Karen Nelson, Sally Kift and John Clarke's qualitative study of the expectations and experiences of first-year law students at the Queensland University of Technology makes an important contribution to our understanding of the complex ways in which commencing law students' expectations match, and mismatch, the realities of first-year law.⁴⁰ Implications for performance are unclear, however. On the one hand, as the authors note, 'a mismatch between student expectations and the university experience is not always detrimental' and may be a 'vital' part of the educative process.⁴¹ Also, 'the degree to which a university meets student expectations may not be an ideal measure for the overall quality of higher education'⁴² — an important reminder at a time when students' expectations of higher education appear to be becoming increasingly consumerist.⁴³ On the other hand, however, it was of some concern that the law students in Nelson, Kift and Clarke's study had high expectations of wanting to learn and acquire new skills which they felt were not adequately met.⁴⁴ Transition, engagement and performance may be affected adversely if students' expectations of learning and learning processes are not aligned with the learning objectives and outcomes of their course.⁴⁵

A third factor that Krause et al's study identifies as associated with academic performance is the financing of study. Krause et al's low achievers were more likely to report that they felt pressured by the financial commitment their parents had made in sending them to university.⁴⁶ The study also found that full-time students working in paid employment 16 or more hours per week were more likely than those working shorter hours to have an average first semester mark of 60 per cent or less.⁴⁷ Again, this confirms earlier studies that have identified a correlation between levels of paid work and family care and academic performance.⁴⁸ Although Krause et al do not report findings differentiated by course of study, all three factors discussed here that were found to be associated with high achievement in first year — intrinsic reasons for undertaking the course, realistic

³⁹ Krause et al, above n 16, 23.

⁴⁰ Nelson, Kift and Clarke, above n 36.

⁴¹ Ibid 2. On this point, see also James Boyd White, 'Schooling Expectations' (2004) 54 *Journal of Legal Education* 499.

⁴² Nelson, Kift and Clarke, above n 36, 3.

⁴³ Naomi Rosh White, "'The Customer is Always Right?': Student Discourse about Higher Education in Australia' (2007) 54 *Higher Education* 593.

⁴⁴ Nelson, Kift and Clarke, above n 36, 7.

⁴⁵ As distinct from commencing expectations of facilities, social interaction, workload and so on. On this point, see also Andrews, above n 36; Jansen and van der Meer, above n 38.

⁴⁶ Krause et al, above n 16, 24.

⁴⁷ Ibid 56.

⁴⁸ Yorke, above n 33, 19–25; Yorke, above n 16, 4–5.

expectations of course content and workload, and fewer hours in paid employment — are likely to apply to law students, and perhaps even more forcefully so, given the challenging nature and professional focus of the course.

The first-year experience literature, in combination with academic-performance research, thus provide important information for law schools to consider, although they do not generally investigate the experiences and performance of law students in particular.⁴⁹ The importance of gaining a better understanding of the attitudes, experiences and aspirations of current law students was recently underscored by the Council of Australian Law Deans (CALD). Explaining the objectives of a project funded by the Australian Learning and Teaching Council (formerly Carrick Institute), which is, among other things, investigating the characteristics of current law students, CALD observed that '[s]ensible planning is impossible in the absence of robust data on student needs, values and aspirations, graduate career paths and so on'.⁵⁰ The need for robust data on the characteristics and experiences of law students has been on the policy and planning agenda at the Melbourne Law School for some years. Indeed, the present study builds on the faculty's previous periodic collection and analysis of empirical data on the experiences of first-year LLB students.⁵¹ The move to graduate-only entry to the Melbourne Law School from 2008 sharpened the need to improve our understanding of commencing students' interests and expectations, and the factors that affect academic performance in law.⁵² It was in this context that the authors sought and were granted funding to undertake the Studying Law Project.⁵³

⁴⁹ Nelson, Kift and Clarke's study of expectations, above n 36, and Ippolito's investigation of 'hidden attributes', above n 1, are important law-specific contributions.

⁵⁰ Michael Coper, 'Learning and Teaching in the Discipline of Law: Achieving and Sustaining Excellence in a Changed and Changing Environment' (Project Summary, 2007) 4 <http://www.altc.edu.au/carrick/webdav/users/siteadmin/public/dbi_pilotprojects_law_projects/summary_2007.pdf> at 4 December 2008.

⁵¹ First Year Experience studies were undertaken at the Melbourne Law School in the mid 1990s, 2001 and 2004, and there is ongoing collection of data through focus groups and exit interviews. The data has been used to improve students' transition and first-year experience by informing the design of academic support programs and first-year teaching.

⁵² For information on the Melbourne Model see the University of Melbourne website: <<http://www.futurestudents.unimelb.edu.au/about/melbournemodel>> at 4 December 2008; information on the professional entry graduate programs is available at: <<http://www.futurestudents.unimelb.edu.au/grad/gradprog/newprog.html>> at 4 December 2008.

⁵³ The Studying Law project has been funded by a grant from the Learning and Teaching Performance Fund at the University of Melbourne. The authors would like to thank Professor Peter McPhee for his interest in the project and his assistance in securing the funding.

III THE STUDYING LAW PROJECT

The Studying Law Project is designed to investigate: commencing law students' interests, attitudes and expectations with respect to their chosen course; the relation between reported interests and expectations at commencement and first semester results in law; and the differences, if any, in the interests and expectations of an undergraduate and a graduate cohort. This article reports findings for the 2007 commencing LLB cohort on the relationship between students' expectations and attitudes at commencement, and their first semester results. This relationship was investigated by comparing the initial interests, attitudes and expectations of three performance groups: high-achieving, low-achieving and non-completing students.

A Method

The authors designed a 73-item questionnaire which was administered to the commencing LLB cohort in week one of semester one, 2007.⁵⁴ The questionnaire elicited information regarding:

- students' interests in studying law, including their intended use of the degree;
- students' expectations of academic success, study and support; and
- students' academic readiness for study in law, including use of effective learning strategies.

A number of questionnaire items were based on questions previously included in the national First Year Experience survey,⁵⁵ the Melbourne Law School's First Year Experience Questionnaire,⁵⁶ and the 'English Language Learning: Students' Expectations and Perceptions' survey administered to international English as a Second Language (ESL) students commencing studies at the University of Melbourne in 2005 and 2006.⁵⁷ The questionnaire was trialled with a small number of current law students to ensure that it could be

⁵⁴ The authors would like to acknowledge the invaluable assistance of Ms Jill Dixon, the Studying Law Project Manager, who handled all aspects of survey administration and data preparation; also Ms Marnie Collins, Statistical Consultant, the Statistical Consulting Centre, University of Melbourne, who prepared all preliminary data analyses and advised on interpretation of results. The same questionnaire was administered to the commencing JD cohort in February 2008. Preliminary analysis has been undertaken. Final results of the project will not be reported until first semester results have been finalised.

⁵⁵ Krause et al, above n 16.

⁵⁶ Described above n 51.

⁵⁷ See Laurie Ransom, Wendy Larcombe and Chi Baik, 'English Language Needs and Support: International-ESL Students' Perceptions and Expectations' (Paper presented at the 16th International Education Association (ISANA) International Conference, Christchurch, New Zealand, December 2005) included in *Internationalisation — Practical Solutions: Conference Proceedings* (ISANA 2005) <http://www.services.unimelb.edu.au/llsu/pdf/otherpdfs/ransom_larcombe_baik.pdf> at 4 December 2008.

completed within 15 minutes and that no item caused confusion or misunderstanding. No changes were needed as a result of the trial.

All commencing 2007 LLB students were invited to complete the Studying Law questionnaire in their first class of the compulsory subject Principles of Public Law (PPL), in week one of semester. The nature and purpose of the survey were fully explained, and students were given a plain English statement describing the project and the voluntary and confidential nature of the information they were asked to provide. An incentive prize was offered to encourage participation. Students who chose to participate in the study then completed and returned an informed consent form together with their questionnaire responses. Students supplied their student number on the consent form to enable first semester results and limited demographic data to be extracted from faculty files and matched with survey data. Students were advised that none of the first-year lecturers (including the principal researchers) would have access to unprocessed data or be able to identify individual students.⁵⁸

Of the 431 students commencing in 2007, 415 returned usable questionnaires and signed consent forms. The high response rate meant that the survey respondents were in all respects representative of the commencing cohort.

B Profile of the Respondent Sample

Demographic data retrieved from faculty files and matched with survey responses confirmed that the respondent sample was representative. Overall, respondents were very young (only 10 per cent were aged 20 years or more) and consisted predominantly of school leavers (74 per cent had no prior university experience). Female students (62 per cent) slightly outnumbered male students. The vast majority (91 per cent of respondents) were studying combined degrees, with Commerce/Law and Arts/Law accounting for three quarters of the combined degrees.

IV ACADEMIC PERFORMANCE SUBGROUPS

Results data were retrieved for the two compulsory first-year subjects in which all commencing LLB students were enrolled: PPL and Legal Method and Reasoning (LMR). Data on final results was available for 402 of the students who participated in the Studying Law survey.⁵⁹ In addition to passing grades, students may have received a fail (N) result, a withdrawn (WD) result, or a withheld (WH) result.

⁵⁸ The project was approved by relevant ethics committee at the University of Melbourne.

⁵⁹ Results data was not available for all 415 participants as some students had withdrawn before the census date and not received a final result. Also, the student numbers on a small number of consent forms were illegible.

For the present purposes, the authors investigated the initial interests, attitudes and expectations of students whose results fell into one of three categories: non-completing (N/WD/WH), low-achieving (50-55 per cent) or high-achieving (80 per cent or above).⁶⁰

Of the 402 students for whom final results were available, 32 students received results of N, WD or WH (8 per cent of the respondent sample) in one or both of their compulsory first semester law subjects. Forty-one students (10 per cent of the respondent sample) received a mark in the 50-55 per cent range in one or both of their first semester subjects. Forty-eight students (11 per cent of the respondent sample) received a mark of 80 per cent or above in one or both of their first semester subjects.⁶¹

The demographic characteristics of students in the three subgroups were analysed according to age, gender and course type. While demographic differences within the subgroups must be regarded as indicative only, given the small numbers, age appeared to have some relevance to student achievement. Notably, students in the 20 years and older age group were slightly over-represented in the high-achieving category, and also over-represented in the non-completing category by a factor of almost three. All age groups were proportionately represented in the low-achieving group. Single-degree students were over-represented in all subgroups. They were over-represented in the non-completing subgroup by a factor of two. Combined-degree students on the other hand, were under-represented in all three subgroups, particularly the non-completing subgroup. Gender was less relevant. While female students outnumbered male students in the cohort (62% female, 38% male), genders were proportionally represented in the performance groups.

V PERFORMANCE AND INTEREST IN STUDYING LAW

Previous studies have identified a positive relation between first-year student achievement and students' intrinsic interest in their selected course.⁶² Informal questioning of law students at the University of Melbourne, however, indicated that undergraduate students made the decision to study law for a range of reasons, and

⁶⁰ Note that our definitions of 'high-achieving' and 'low-achieving' are not the same as those used by Krause et al, above n 16. Also note that, at the Melbourne Law School, a result in the 50-55 per cent range represents a bare Pass. A result of 80 per cent or above represents a first-class Honour — generally awarded in first year to around 10 per cent of the cohort. The highest mark awarded in PPL in 2007 was 86 per cent and the average mark was 68 per cent. The highest mark awarded in LMR in 2007 was 90 per cent and the average mark was 67 per cent.

⁶¹ As the total number of students in each of these three subgroups is relatively low, findings based on differences in responses *within* a particular subgroup should be regarded as tentative or indicative only.

⁶² Krause et al, above n 16, 13.

not always ‘good’ reasons.⁶³ In order to assess students’ ‘genuine’ level of interest in studying (or working in) law, the survey asked a series of questions about their reasons for choosing the course, their levels of interest in various aspects of legal study, and their career plans.

A Reasons for Studying Law

Students were asked to indicate their reasons for studying law by selecting from eight listed options. They could select as many options as applied. One option was ‘Other’ and further space was provided for students to explain their reasons — see Table 1.⁶⁴ Both the particular reasons selected and the total number of reasons selected differed between the performance groups.

Almost all high-achieving students selected ‘Interest and aptitude’ (88 per cent), indicating that they felt (accurately or not) that law was a course to which they were personally well-suited.⁶⁵ Students in this group also selected ‘Financial reasons’ (46 per cent), ‘Professional status’ (52 per cent) and ‘Social justice’ (54 per cent) at rates higher than the cohort as a whole. By contrast, these students were less likely than the general cohort to select ‘Parental advice’. It is noteworthy that students in both the low-achieving group and the non-completing group selected fewer reasons for studying law. The reason most commonly nominated by low-achieving students was ‘Interest and aptitude’ (44 per cent). However this reason was nominated by less than half the students in this group, compared with almost all of the high-achieving students. Also, low-achieving students were as likely to nominate ‘Parental advice’ (42 per cent) and ‘Achieved required marks’ (42 per cent) as they were ‘Interest and aptitude’. Only 17 per cent of the low-achieving students nominated ‘Social justice’, compared with 54 per cent of the high-achieving students.

Non-completing students were less likely than low-achieving students to nominate ‘Achieved required marks’ (28 per cent) and ‘Parental advice’ (31 per cent). They were more likely than low-achieving students to nominate ‘Social justice’ (31 per cent) and ‘Interest and aptitude’ (53 per cent), but less likely than the high-achieving students to nominate these reasons.

⁶³ Common class answers to the question of ‘Why are you studying law?’ include: ‘I didn’t get into Medicine’, ‘I got the marks’, and ‘Because I don’t know what I want to do yet and law is a good general degree’. One of the most memorable answers ever was ‘I’m doing law because my mother wanted me to do Medicine’.

⁶⁴ Differences of seven per cent or less between the subgroups’ responses were regarded as not meaningful.

⁶⁵ Krause et al consider ‘studying in a field that really interests me’ to be an ‘intrinsic’ motive for study, compared with ‘extrinsic’ motives such as ‘improving job prospects’ or ‘expectations of parents or family’, above n 16, 12–13.

Table 1: Reasons for Studying Law and Student Performance Groups

What are your reasons for studying Law?	LMR and PPL performance					
	N/WD/WH N = 32		50-55% N = 41		80% and above N = 48	
	Count	Per cent	Count	Per cent	Count	Per cent
Financial – 38.3%	12	38%	14	34%	22	46%
Professional status – 43.6%	13	41%	16	39%	25	52%
Social justice – 42.2%	10	31%	7	17%	26	54%
Parental advice – 26.0%	10	31%	17	41%	10	21%
Interest and aptitude – 69.2%	17	53%	18	44%	42	88%
Best option available – 24.1%	10	31%	8	20%	11	23%
Achieved required marks – 34.7%	9	28%	17	42%	16	33%
Other – 9.9%	3	9%	4	10%	3	6%

It appears that some reasons for studying law are better than others, possibly to the extent that they ensure that the student remains engaged with the course and motivated to study on a day-to-day basis. ‘Parental advice’ and ‘Achieved required marks’ were associated with low performance, while ‘Interest and aptitude’ and ‘Social justice’ stood out as having a positive relation with success in the first semester (notwithstanding reservations that might be held about the capacity of commencing students to accurately assess their aptitude for the course). Having several reasons for studying law was also linked with stronger performance: high-achieving students selected on average 3.2 reasons each, whereas low-achieving students selected on average 2.5 reasons each. Students in the non-completing group selected, on average, 2.6 reasons each.

B *Levels of Interest in Activities Involved in Study in Law*

‘Interest’ was confirmed as an important factor associated with academic performance by another set of questions in the survey which asked students to rate their level of interest in a range of activities involved in studying law — see Table 2. On a five-point scale where one equals ‘Very Low’ and five equals ‘Very High’, so that three represents an ‘Intermediate’ or neutral level of interest, the low-achieving students as a group did not rate their levels of interest in any of the 12 nominated activities at a mean above 3.8. By contrast, the high-achieving group expressed mean levels of interest of 3.8 or above in 10 of the 12 nominated activities.

The difference in mean levels of interest between the low-achieving group and the high-achieving group was substantial (difference in means of 0.6 or greater) on six items — see Table 2.⁶⁶ The only item on which the low-achieving group expressed a greater level of interest than the high-achieving group was ‘Understanding business regulation and practice’. The non-completing group on average expressed higher levels of interest in the nominated range of activities than low-achieving students, but lower levels of interest when compared to the high-achieving students. The non-completing group reached means of 3.8 and above on three of the 12 items, and the lowest mean for this group was 3.2, compared with 2.8 for the low-achieving group. The interest levels of the non-completing students matched those of the high-achieving students on items related to dispute resolution.

It is not surprising to find that high-achieving students are more interested than their low-achieving counterparts in the content and practice of law, considered within its wider social and political context. However, it is not always acknowledged that academic results reflect students’ levels of interest in the subject content, not only their academic abilities. In this context, it should be noted that the first-year law subjects whose results are reported in this article do not address business regulation and practice.⁶⁷ Consequently, the low-achieving and non-completing students who expressed a particular interest in this aspect of legal study may see their results improve in later year subjects with a focus on business regulation.

It is also understandable that the students in the non-completing group expressed levels of interest roughly midway between those of the other two groups. The non-completing group is likely to have comprised some highly interested students who were unable to complete the semester, as well as some students with relatively low

⁶⁶ Differences in means of 0.3 or greater were considered meaningful.

⁶⁷ With the limited exception that aspects of LMR relate to ‘dangerous goods’ and tortious liability.

levels of interest who realised over the course of the semester that law was not for them.

Table 2: Levels of interest and student performance groups

5-point scale: Very Low (1) to Very High (5)	LMR and PPL performance groups — means		
	N/WD/WH	50-55%	80%+
Rate your level of interest in the following:	n=32	n=41	n=48
Advising clients on their legal rights and responsibilities	3.7	3.2	3.8
Thinking critically about the Australian legal system	3.4	3.2	3.8
Understanding business regulation and practice	3.6	3.6	3.1
Investigating democracy and systems of government	3.4	3.6	4.0
Developing proposals to reform laws and improve legal systems	3.3	3.2	3.9
Understanding environmental regulation and practice	3.2	2.8	3.7
Investigating international law (e.g. United Nations treaties)	3.8	3.6	4.3
Devising legal arguments and strategies to protect a client's interests	4.2	3.7	4.2
Advancing social justice	3.6	3.4	4.0
Investigating other countries' legal systems (e.g. Indonesia, United Kingdom)	3.5	3.8	3.8
Investigating the position of disadvantaged and minority groups	3.7	3.4	3.8
Understanding legal processes for resolving disputes	3.9	3.6	3.9

C Career Plans

It was anticipated that high levels of interest in common elements of legal study would help to keep students motivated and engaged in a way that was likely to be reflected in their results.

It was also anticipated that well-formed career plans may be an important motivating factor. This was not confirmed by the findings, however. Many commencing law students did not have well-formed career plans — a fact perhaps explained by the average age of the students.

When asked how they planned to use their law degree, at least 40 per cent of the students in each of the three subgroups nominated 'Commercial law firm'. Beyond this option, plans were less specific. Almost half (49 per cent) of the low-achieving students answered 'Don't know'. A smaller but still substantial proportion (38 per cent) of the high-achieving students answered 'Don't know'.⁶⁸ A high proportion of the students in each of the three subgroups (around 60 per cent) also answered 'Don't know' when asked how long they expected to practice law after completing their degree. However, one quarter (25 per cent) of the students in both the high-achieving group and the non-completing group expected to practice law for more than five years, compared with only 15 per cent of the low-achieving students. Between 10 per cent and 13 per cent of the students in each of the subgroups did not expect to practice law at all after completing their degree.

Students in the different subgroups had slightly different preferences regarding the type of employer for whom they would like to work. Students could check as many options as applied, and at least half the students in each of the three subgroups nominated 'Law firm' and 'Corporation'. Interestingly, 50 per cent of the high-achieving students also nominated 'Government' as a potential employer, compared with only 15 per cent of the low-achieving students. High-achieving students also expressed greater interest in working for a 'Community' employer (38 per cent) than low-achieving students (17 per cent). These preferences are likely to reflect the relative levels of interest (discussed above) of the students in these two subgroups in advancing social justice, law reform, and systems of government.

Overall, while firm career plans were not associated with high achievement in the first semester, high-achieving students were slightly more likely than low-achieving students to expect to practice law for more than five years and to indicate an interest in working for a range of employers, including government and community sector employers.

⁶⁸ Interestingly, 40 per cent of the high-achieving students nominated 'Other' in response to this question and listed a wide range of career destinations or fields.

VI PERFORMANCE AND EXPECTATIONS OF ACADEMIC SUCCESS, STUDY AND SUPPORT

The competition for places in law schools ensures that all law students have previously been high academic achievers. Many assume that they will continue to receive ‘top marks’, and some even assume that this can be done ‘effortlessly’ — that is, without significant study. First-year lecturers will be familiar with the need to discuss workload requirements and assessment expectations explicitly, and to ‘soften the ground’ in preparation for return of first assignments. In order to assess the extent to which commencing law students held unrealistic ‘hopes’ in relation to their course, students were asked a number of questions about their expectations of first semester results, the amount of study that would be required by the course, and the types and level of support they would receive. It was anticipated that students who had realistic expectations about the demands of study in law, and who felt confident that they were well-prepared to manage those demands successfully, would be more likely to cope well with the academic challenges of the course.

A Expectations of Academic Success

In week one of semester, students who ended up in the high-achieving group had very high expectations about their academic results. Students in the low-achieving group were less confident at the outset. When asked to indicate the lowest percentage mark that they would be happy with for a law assignment, 38 per cent of the high-achieving students said they would not be happy with a percentage mark below 80, and a total of 83 per cent of these students indicated they would not be happy with a mark below 70. Only 15 per cent of the low-achieving students said they would not be happy with a percentage mark below 80. Further, 29 per cent of this group would be happy with marks in the 60-69 per cent range and 15 per cent would be happy with marks in the 50-59 per cent range on a law assignment. The expectations of non-completing students were slightly different, with 41 per cent of this group saying they would be happy with a mark in the 60-69 per cent range on a law assignment. However, 28 per cent of this group said they would not be happy with a mark below 80.

When asked about their expected position in their class cohort, the subgroups’ expectations of academic success were also slightly different. Almost half (48 per cent) of the high-achieving students agreed with the proposition ‘I expect my results to be in the top one third of my class’ and only 15 per cent disagreed. A high proportion of non-completing students also agreed (44 per cent). By contrast, only 32 per cent of the low-achieving students agreed with this proposition and 32 per cent disagreed.

It should be noted that, although the low-achieving students had lower expectations of their academic results than the high-achieving students, most of the students in the low-achieving group would nonetheless have been quite disappointed with their first semester results — some extremely so.

B *Expectations of Study*

While they held high expectations for their academic results, students in the high-achieving group generally had a realistic understanding of the amount of independent study they would need to undertake for their law course. Around one third (32 per cent) of the high-achieving students said they expected to spend 16 or more hours per week studying outside class time. A total of 83 per cent in this group expected to spend 11 hours or more per week studying. Only one quarter (24 per cent) of the low-achieving students expected to spend 16 or more hours per week studying, and only 54 per cent of this group expected to spend 11 hours or more per week studying. Furthermore, 10 per cent of this group expected to spend less than five hours per week studying, whereas no student in the high-achieving group had this expectation.

Only 3 per cent of the non-completing students expected to spend less than five hours per week studying. A total of 59 per cent of the non-completing students expected to spend 11 or more hours per week studying, with almost half of those students expecting to spend 16 or more hours per week studying. For the 40 per cent of non-completing students who expected to spend 10 hours or less per week studying outside of class, the realisation that the workload is significantly greater than this may have been a factor in their non-completion.

Having realistic expectations of the workload involved in a law course, and of the fact that much of that workload involves independent study, is clearly a factor contributing to the success of the high-achieving students. Capacity to undertake the required amount of independent study is also important. In this respect, the commitments to paid employment and family care of the three subgroups were quite distinct.

Low-achieving students gravitated towards the extremes in terms of paid employment. They were the most likely of the three subgroups to expect to spend no hours in paid employment (34 per cent) during semester. They were also most likely to expect to spend more than 11 hours per week in paid employment (29 per cent). Only 9 per cent of the high-achieving students expected to spend 11 or more hours per week working in paid employment, although all of those students expected to work more than 16 hours per week. Of the non-completing group, 19 per cent expected to work 11 or more

hours per week in paid employment, while 31 per cent expected to spend no hours in paid employment during semester.

Similarly, family care responsibilities were not evenly distributed across the three subgroups. More than half (54 per cent) of the low-achieving students said they expected to be directly caring for family members during semester. Indeed, 17 per cent of these students expected to spend more than six hours per week providing direct care. Of the non-completing students, 41 per cent also expected to be directly caring for family members during semester; 9 per cent of this group expected to spend more than six hours per week providing care. By contrast, 81 per cent of the high-achieving students expected to spend no time directly caring for family members during semester. A further 17 per cent expected to spend only one to five hours per week caring for family members and only 2 per cent expected to spend six or more hours per week providing care.

In summary, students in the high-achieving group had the most realistic expectations about the amount of study required by a law course, and they were comparatively well positioned to meet those demands. Low-achieving and non-completing students were more likely to be carrying family and employment commitments that would make it difficult for them to undertake an appropriate amount of independent study. In this context, these students' underestimation of the amount of study that would be needed outside of class time may well have represented wishful thinking.

C Expectations of Support

The transition to a university learning environment requires considerable adjustment for some students. To assess students' understanding of university learning, a number of survey questions investigated expectations regarding academic support and perceptions of responsibility for academic achievement. It was anticipated that students who understood that they would be responsible for their own learning and achievement at university would be more likely to perform well in the first semester.

All subgroups expressed strong agreement with the proposition 'I am responsible for my own learning and academic performance'. However, additional questions revealed that some respondents in the low-achieving and non-completing groups perceived subject teachers as responsible for their academic success. High-achieving students were, on average, neutral in response to the proposition 'I will only succeed academically if I have good teachers': 27 per cent agreed and 35 per cent disagreed. Low-achieving students showed stronger agreement — 49 per cent agreed and only 17 per cent disagreed with this proposition. Furthermore, students in both the low-achieving group and the non-completing group expressed very strong agreement (mean 4.3) with the proposition that they expected

their subject teachers to contact them if it appeared that they may be having academic difficulties. Indeed, while most students agreed with the proposition 'I expect my subject teachers to contact me if it appears that I may be having academic difficulties', 59 per cent of the non-completing students and 49 per cent of the low-achieving students, compared with 33 per cent of the high-achieving students, *strongly* agreed with this proposition.

Non-completing students also had the highest expectations of the three subgroups that, having offered them a place, the university would ensure they received all the support needed to pass their subjects (mean 4.4).⁶⁹ Again, most students agreed with this proposition. However, 56 per cent of the non-completing students *strongly* agreed that 'Having offered me a place, the University should ensure that I get all the support I may need to pass my subjects'. Only 39 per cent of the low-achieving students and 40 per cent of the high-achieving students strongly agreed with this proposition. Further, 74 per cent of the non-completing students *strongly* agreed that 'I expect my subject teachers to help me if I have difficulty with any aspect of my course'. Forty-nine per cent of the low-achieving students strongly agreed with this proposition, and only 31 per cent of the high-achieving students.

Non-completing students also had the highest expectations regarding out-of-class meetings with their lecturers to discuss academic issues. Thirty-one per cent of the students in this group expected to meet each of their lecturers five or more times out of class per semester, compared with 22 per cent of the low-achieving students and 21 per cent of the high-achieving students.

Overall, despite having higher expectations of academic success, high-achieving students had more realistic expectations about the academic support they would receive from the university and their subject teachers. The high-achieving students were also more confident about their abilities to manage their own learning and to bear responsibility for their academic achievement. It should be noted that the high-achieving group still held high expectations of their subject teachers and the university. However, the expectations of students in the other two groups were extremely high. Indeed, the largely unrealistic expectations of support held by the non-completing students may well have been an important factor contributing to the failure of these students to successfully complete the semester.

⁶⁹ This item was reproduced from, and our findings are consistent with those of, a questionnaire administered to international students identified as likely to benefit from English language support at the University of Melbourne — see Ransom, Larcombe and Baik, above n 57.

VII PERFORMANCE AND ACADEMIC READINESS FOR STUDY IN LAW

While students commencing law will have achieved high academic results in their previous studies, the academic skills relied on in those earlier studies may not be the skills required for study in law. To assess students' academic preparedness for study in law, students were asked about their prior academic experience and their current confidence in their 'readiness' to undertake a range of academic tasks to a high standard. They were also asked about learning strategies and what they would be likely to do if they experienced academic difficulties.

A Academic Readiness

It was anticipated that previous experience of university study would be some advantage in the first-year undergraduate law course. However, owing to the low numbers, we were not able to identify differences between the three subgroups in relation to the proportion of students who had prior university experience. The only finding from the present study in relation to prior academic experience concerned essay writing. While 35 per cent of the high-achieving students had previously written essays of more than 3000 words, only 22 per cent of the low-achieving students had previously written essays of that length. Further, 10 per cent of the low-achieving students had only very limited essay writing experience: they had written essays of up to 800 words or selected 'Don't Know' in response to this question (which was interpreted to indicate limited or no essay writing experience). Of the non-completing students, 19 per cent had similarly limited essay writing experience (selected 'Don't Know' or 'up to 800 words'). Only 2 per cent of the high-achieving students had such limited essay writing experience.

Self-ratings of academic 'readiness' proved to be a better indicator of first semester performance than previous experience. Students were asked to rate their readiness to undertake eight academic tasks to a high standard. A confidence scale was provided with five options, from 'Very Low' to 'Very High'. There were notable differences between the subgroups' responses. Low-achieving students, on average, rated their readiness lower than high-achieving students on all tasks, and substantially lower (a difference in means of 0.5 or greater) on five of the eight tasks. These included to:

- critically evaluate information and opinions;
- read and make notes from a range of primary and secondary legal sources;
- establish effective study routines and learning strategies;
- listen attentively and engage with information delivered orally in lectures or seminars; and

- actively participate in class discussions and group work.

As Table 3 shows, the combined ‘High’ and ‘Very High’ confidence ratings of the non-completing students fell between those of the low-achieving students and those of the high-achieving students. Clearly, the high- and low-achieving students’ self-ratings on these tasks were accurate to some degree, even predictive.

Table 3: High self-ratings of academic ‘readiness’ and student performance groups

5-point scale: Very Low (1) to Very High (5)	% combined High and Very High responses		
	LMR and PPL performance groups		
	N/WD/ WH	50-55%	80%+
Rate your readiness to undertake the following academic tasks to a high standard:	n=32	n=41	n=48
Critically evaluate information and opinions	56%	49%	75%
Read and make notes from a range of primary and secondary legal sources	53%	54%	76%
Establish effective study routines and learning strategies	63%	49%	74%
Listen attentively and engage with information delivered orally in lectures or seminars	66%	59%	94%
Research legal issues using a range of specialised primary and secondary legal sources	50%	56%	57%
Write academic legal essays of up to 5,000 words	34%	49%	51%
Manage demanding and competing workloads and deadlines	47%	59%	60%
Actively participate in class discussions and group work	59%	54%	83%

B *Use of Effective Learning Strategies*

Based on self-ratings of academic skill levels, the high-achieving students were the least likely to anticipate academic difficulties. However, consistent with previous research,⁷⁰ high-achieving students indicated that they would take a more conscientious approach to their

⁷⁰ See Ippolito, above n 1, 463; McKenzie, Gow and Schweitzer, above n 11.

learning than low-achieving students. For example, they expressed strong agreement with the statement 'I like to revise and consolidate my learning during semester' (83 per cent agreement compared to 56 per cent agreement from low achievers). They were also more likely to agree that they would sit towards the front of the classroom (42 per cent agreement compared to 32 per cent agreement from low achievers),⁷¹ and to agree that they disliked attending class without completing assigned reading (92 per cent agreement compared to 81 per cent agreement from low achievers). Only 10 per cent of the high-achieving students agreed that 'I am likely to miss class if I have other commitments', compared to 22 per cent of the low achievers.

High-achieving students were also more likely to indicate that they would be proactive in seeking assistance if they encountered academic difficulties. For example, they were more likely (difference in means of 0.3 or greater) than those in the low-achieving group to agree that, if they encountered difficulties, they would: arrange to meet with lecturers to discuss subject content and assignments; access lecture notes or recordings from the subject website; and locate and read additional reading material. Importantly, they were less likely than the low achievers to say that they would 'Wait and hope that the subject material becomes clearer over time' (difference in means of 0.3).

High-achieving students were thus better prepared both to undertake the academic tasks involved in law and also to take responsibility for their learning, including seeking assistance when needed.

VIII DISCUSSION

The findings of this study identify a number of factors associated with the academic performance of students in their first semester at law school. Given that all students at the Melbourne Law School had previously achieved very high academic results in order to secure their place, prior academic achievement was not a variable investigated here.⁷² Rather, the present study investigated the interests, attitudes and expectations at commencement of three performance subgroups: non-completing, low-achieving, and high-achieving.

⁷¹ See Ippolito, above n 1: sitting toward the back of the classroom was one of the significant 'non-traditional variables' identified in Ippolito's study.

⁷² As the vast majority of LLB students at the Melbourne Law School are school leavers, they have most commonly been selected on the basis of their Equivalent National Tertiary Entrance Rank (or ENTER) score. The Melbourne LLB has regularly required one of the highest entry scores in Victoria.

A Performance Subgroups' Interests, Attitudes and Expectations

A number of differences were identified between high-achieving students and low-achieving students in relation to their levels of interest in law; their expectations of the workload and their capacity to undertake an appropriate amount of private study; and their confidence in their academic skills and 'readiness'.

Supporting the findings from the national first year experience surveys,⁷³ a student's sense of interest in, and aptitude for, their selected course appears to be particularly important to first semester performance. Almost all high-achieving students selected 'Interest and aptitude' as a reason for studying law. Fewer low-achieving students did so, and it is consistent that students who did not feel that they were personally 'well-suited' to the degree may have struggled to maintain interest and motivation during the semester. It was notable that low-achieving students also indicated lower levels of interest in a range of activities involved in studying law. There can be little doubt that interest in the substantive content, context and practice of law will help to motivate a student through the hours of independent study.

As anticipated, realistic expectations about the amount of independent study involved in a law course were also associated with performance. High-achieving students had a far better understanding of the amount of independent study they would need to undertake for their law course than students in either the low-achieving group or the non-completing group. The underestimation of the workload by low-achieving students was particularly surprising, given that each subject website provided a clear statement of the time commitment involved in the subject, and this information was restated in orientation sessions which students should have attended the week before the survey was conducted. Low-achieving students' more substantial commitments to paid employment and family care may explain their unrealistic expectations of study requirements. Previous research discussed above has established that a student's capacity to undertake an appropriate amount of independent study is vital to academic success. Further research is needed to establish whether the outside commitments of law students need to be more curtailed than those of students in other degrees to ensure success.

An unexpected finding in the present study was the extent to which students' levels of confidence in their academic skills and in their abilities to meet the academic demands of the law course proved to be accurate. It had been anticipated that all commencing law students would express high levels of confidence in their skills and

⁷³ Krause et al, above n 16.

abilities, given the academic results they had previously achieved. This was not the case. Expectations regarding academic results were not necessarily proportionately moderated, however. Rather, many of the low-achieving students looked to their subject teachers to ensure their academic success. High-achieving students had generally lower expectations about the academic support they would receive from the university and their subject teachers, despite having higher expectations of academic success. Of course, this may well have been because the high-achieving students did not expect to *need* the same amount of additional academic support. However, it may also indicate that the high-achieving students had a better understanding of the independent learning expected of students at university level. This latter interpretation is supported by the fact that high-achieving students demonstrated a more conscientious attitude in relation to their study and were more likely to indicate that they would take proactive steps to address academic difficulties. In this respect, our findings support those of McKenzie, Gow and Schweitzer,⁷⁴ and indicate that conscientiousness, self-regulation and effective study skills are factors that would merit further investigation in relation to academic performance in law.

The interests, attitudes and expectations of the students who did not successfully complete the semester were not as coherent or distinctive as those of the students in the other two subgroups. This is understandable. There would have been a range of reasons for students' non-completion. Some will have experienced personal tragedy or illness, some may have been forced to withdraw from study for economic reasons, and some will have found that they were ill-prepared academically for study in law and genuinely struggled. It was of particular interest to learn, however, that the students who failed to complete the semester successfully had the highest, and most unrealistic, expectations of support from lecturers and the university as a whole. This indicates that mismatches between students' and teachers' expectations regarding learning processes and objectives may be particularly disruptive. As Nelson, Kift and Clarke observe, it may not be appropriate or desirable for university courses to simply 'meet' students' expectations.⁷⁵ However, further research into the particular mismatches in expectations that have adverse impacts on academic performance would be valuable.

B Implications

The findings from the present study are limited in being based on a small respondent sample from a single law school. Further research will be needed to verify the factors associated with academic

⁷⁴ McKenzie, Gow and Schweitzer, above n 11.

⁷⁵ Nelson, Kift and Clarke, above n 36, 3.

performance in law that this study has identified. Notwithstanding these limitations, the findings from the present study have implications for selection, recruitment and marketing, and first-year teaching.

The factors that affect academic performance have clear implications for selection processes in law schools. In order to select students who are more likely to be high achieving, from a pool of applicants with similarly high academic qualifications, our findings indicate that one would be well advised to inquire into four matters. Firstly, the students' reasons for wanting to study law and their levels of interest in common aspects of study in law. Firm career plans are of less importance. Secondly, expectations of workloads, and in particular of the amount of independent study they will need to undertake. Moreover, students must have the capacity to undertake the requisite amount and type of work involved in studying law, meaning that family care and employment commitments must be appropriately limited.⁷⁶ Thirdly, students' expectations of success and of the academic support they will receive are worth discussing. High levels of confidence in academic success bode well when combined with acceptance of a high degree of responsibility for learning and academic achievement. Finally, students' self-ratings of academic 'readiness' on key academic tasks — such as the ability to critically evaluate information and opinions, to read and make notes from a range of sources, and to listen attentively — appear to be strong indicators of first semester performance.

Of course, law schools need not wait until selection to consider these matters. Further and better information about what a law course involves on a day-to-day basis may assist prospective students to decide whether their choice of course is a wise one. It may be useful to include explicit information on workloads, required and expected skills, and the day-to-day activities involved in study in a law program in marketing materials targeted to prospective students — and also the parents of prospective undergraduate students. Information sessions and school 'open days' should reinforce this information in a way that enables prospective students to make better informed decisions about their interest in, and aptitude for, a law course, and about their capacity to undertake it in conjunction with other commitments.

The Studying Law findings also have important implications for first-year teaching in law. None of the factors identified as 'attributes' of the high-achieving students is 'fixed' or innate. Nor are the 'attributes' of the low-achieving students. Consequently, if the interest of the low-achieving students could be better engaged and fostered in their first semester law classes, if their expectations

⁷⁶ Of course, in an ideal situation, living allowances would be available to ensure that students are not compromising their academic capacity by overcommitting to paid employment. While this remains unlikely in Australia, the research highlights the need for students to be economically supported.

of workloads and types of support could be effectively renegotiated, and if their academic skills and confidence could be enhanced, then it is likely that their academic performance would also improve. In this respect, there is no ‘quick fix’. However, the findings of this study could usefully be addressed in the design of academic transition programs, first-year academic support programs and first-year law subjects. Each of these areas could also explicitly engage students in a dialogue about expectations, interests and skills. Clearly, the earlier in the semester that expectations are renegotiated, and relative ‘weaknesses’ in key academic skills are addressed, the better.

IX CONCLUSION

Our focus in this article has been on what Ippolito has called the ‘hidden attributes’ of successful law students — the factors beyond previous academic achievement that affect performance in law.⁷⁷ These were investigated by tracking back from students’ end-of-semester results and identifying differences in the attitudes and expectations expressed at the beginning of the semester by high-achieving students, low-achieving students, and students who failed to complete the semester. The study found noticeable differences between the initial attitudes and expectations of high-achieving and low-achieving students.

Factors that appear to be associated with first semester academic performance include: reasons for studying law and levels of interest in aspects of legal study; expectations about the amount of independent study involved in the course; expectations about the types and amount of academic support that would be provided; and students’ levels of confidence in their ability to undertake a range of academic tasks. The interests, attitudes and expectations that students bring to their studies in law ‘in the beginning’ clearly matter. The challenge for law schools is to ensure a good match between the interests and expectations of students and the content and demands of the degree. By improving understanding of the ‘hidden attributes’ of both high- and low-achieving students, the findings of this study may well prove useful to law school selection committees. However, it should be emphasised that the attributes identified through the study are not fixed, and that performance in law school may well be dependent on the extent to which the attributes of high-achieving students can be fostered and developed in all students.

⁷⁷ Ippolito, above n 1, 459.