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The Final Twelve

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When the COVID-19 pandemic moved law classes online, the University of Saskatchewan College of Law admitted an additional twelve students. These students had the lowest index scores in their class. This paper reviews their first year academic performance, compares it to other students admitted in the same year, and concludes that at least at the margin, applicants' index score is not an accurate predictor of academic success. The author recommends that admissions committees use additional criteria, at least for applicants at the margin.

Lorsque la pandémie de COVID-19 a entraîné la mise en ligne des cours de droit, la faculté de droit de l'université de Saskatchewan a admis douze étudiants supplémentaires. Ces étudiants avaient les notes d'index les plus basses de leur classe. Dans cet article, nous examinons leurs performances académiques en première année, les comparons à celles d'autres étudiants admis la même année et concluons qu'au moins à la marge, le score d'index des candidats n'est pas un prédicteur précis de la réussite académique. L'auteur recommande aux comités d'admission d'utiliser des critères supplémentaires, au moins pour les candidats marginaux.

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The College of Law at the University of Saskatchewan typically admits 126 incoming first year students annually. Most students are admitted in the “general” category. In considering which applicants to admit as students in this category, the admissions committee primarily considers the applicant’s grade point average (GPA) and Law School Admission Exam (LSAT) score. In addition to the general application category, the College of Law has a “discretionary” category and an “Indigenous” category. Letters of reference may be provided in the discretionary and Indigenous categories, but not in the general category. In the general category, the admissions committee primarily considers the applicant’s index score, which is determined by combining the applicant’s GPA and LSAT scores. Applicants submit a short (500 word maximum) personal statement. In the personal statement, applicants are urged to provide further information to assist the admissions committee in their decision, including “information on special academic interests and achievements, work experience (including volunteer work), special skills, personal attributes and any other significant life experiences (e.g. family-related, travel, etc.).”¹ In addition, a slight preference is given to applicants from Saskatchewan and Canadian jurisdictions which do not have a law school (Yukon, Northwest Territories, Nunavut, Prince Edward Island, and Newfoundland and Labrador). The admissions committee may consider other factors in exercising its discretion to admit applicants as students, but in the general category the most important factor is the index score, derived from the applicants’ GPA and LSAT scores.

The admission process for accepting applicants to begin law school in the fall of 2020 was well underway when the pandemic came to western Canada. At the time, the admissions committee had no idea what effect, if any, the pandemic would have on the incoming class. As the 2020–2021 academic year drew closer, the University of Saskatchewan decided to offer almost all its classes (and all of its first-year law classes) in an online format only. It was possible that a number of accepted incoming students would choose to not begin classes because of fear of online classes, or for other reasons. Given that all classes would be conducted entirely online, it was also uncertain whether a higher than usual number of students would fail to meet the academic standards for progression, or decide not to continue in the College of Law after classes started. For the first time, it was possible that many students in the first year of law school at the

1. For information on the admissions process including selection criteria and categories of applicants, see University of Saskatchewan, “2023–2024 Admission Requirements” (last visited 3 November 2023), online: <programs.usask.ca/programs/admission-requirements.php#CollegeofLaw> [perma.cc/AC9P-C3LC].

University of Saskatchewan would complete their first year without ever being physically in Saskatchewan. This raised the possibility that a much larger than usual number of students would apply to transfer to other law schools after completing their first year at the University of Saskatchewan. As a result, the admissions committee had concerns that the class which began law school in fall 2020 might wind up being significantly smaller than a typical class by the time their second year began. The amount of tuition received by the College in the following two years would be significantly reduced if fewer students completed their second and third years at the University of Saskatchewan.

I was the College of Law Associate Dean Academic, as well as chair of the College's admissions committee in 2020 when the University of Saskatchewan made the decision to move all first-year law classes to a completely online format. No students or faculty would be in the College of Law building. This decision presented several challenges, but it also meant that for the first time ever, class sizes were not constrained by classroom sizes. As a result of the concerns over the possibility of the incoming class shrinking in size after classes began and the opportunity created by being freed of constraints imposed by classroom size, I approached the Dean and recommended that we increase the incoming class size by twelve students (9.5 per cent). The Dean agreed.

At this point in the admissions process, the full complement of students had been accepted. However, as is the case at all law schools, there are always some students who withdraw from the program after their initial acceptance. This may be because as the start date draws nearer, they realize that they cannot afford law school, their personal situation may have changed, or subsequent to accepting the offer they may have been accepted into a different law school or a different program of study higher up on the student's preference list.

In 2020, the admissions committee followed its usual procedure to ensure a full class of incoming students. As the number of accepted students in the class approaches 126, the admissions committee creates a ranked list of acceptable applicants, beyond those already offered a position in the class. If for any reason an accepted student withdraws (or an applicant does not accept the offer of admission within a fixed time from the date of the offer), the admissions staff make an offer of acceptance to the next student on the ranked list.

Some admissions committee members had long assumed that the group of students just below the acceptance line would likely be successful in law school. To put this another way, the admissions committee did not have concerns about the academic quality of students accepted off the wait

list. After all, there is no magic in the cut-off point for acceptance. The annual line is drawn where it is, simply because that marks the spot where the incoming class filled up. The cut-off point varies annually. As a result, some of the final applicants accepted in one year may not have received an offer had they applied the previous or following year. Conversely, an applicant rejected in one year may have been accepted had they applied the previous year, or may yet be accepted if they apply the subsequent year, even though their LSAT score and GPA are unchanged. Although it is fair to say that the admissions committee did not have concerns over the academic quality of students on the margin of acceptance, to the best of my knowledge, no one had ever specifically looked at how these students performed academically as compared to the rest of their class.

With the class beginning in the fall of 2020, we had for the first time an identifiable cohort of students who would not have been accepted into law school but for the financial risk that a higher than usual number of first year students may not continue within the College. This set of circumstances—the admission of a one-time “additional” cohort of students; concerns raised by the pandemic, the move to entirely online classes with no physical presence in the College of Law building; uncertainty over how students would react and financial concerns—created a natural experiment.

I advised the admissions officer responsible for forwarding offers of acceptance to applicants accepted by the admissions committee that we would be accepting an additional twelve students for the 2020–2021 year only. I asked that the names of the final twelve students admitted be recorded on a list and that the list be forwarded to me the following academic year. I did this because in my role as Associate Dean Academic, I was responsible for meeting with students regarding academic matters. I also had some discretion to grant extensions and deferred exams. I did not want to know who the last twelve students admitted were, because I wanted to make sure I did not treat them any differently than I otherwise would have.

Students who began law school in the fall of 2020 and who followed the typical progression route through law school graduated in the spring of 2023. I have now followed up on this natural experiment and have reviewed how well (or poorly) these “final twelve” students performed.

There has been much ink spilled over whether the LSAT is culturally neutral, whether it should be supplemented by factors other than GPA, and even over whether it should be replaced. I make no comment on any of these important issues. I am simply looking at the results of one law school’s general admissions process, where that process gives the greatest weight to an index score made up of applicants’ LSAT score and GPA.

Success in the profession of law is very difficult to measure. In part this is because of the wide variety of reasonable views as to what it means to be a success in the legal profession. Do we measure success in terms of some combination of factors such as money earned, recognition from others, and happiness? Do we look at what a graduate does with their law degree? Is a law school graduate who becomes an elected politician, an award-winning novelist, or an average law professor successful? Such difficulties in defining success amongst law school graduates complicate the discussion as to which metrics are appropriate indicators of success. However, when it comes to first-year law students, I would suggest academic success is an appropriate and accepted metric by which to determine who is successful, at this initial stage in the students' legal careers. While academic success is certainly not the only measure of success in first-year law, it is the one which is easiest to use to evaluate if the law admissions process is in fact an accurate predictor of "success" in the classroom.

The College of Law publishes course grades and the GPA range for students in the top 5, 10, 20, 30, 50, and 75 per cent (and therefore by implication bottom 25 per cent) of each year of study. The course grades do not reveal students' names, but rather are presented as a chart which shows how many students in each course received a particular grade. The GPA ranges similarly do not reveal student identities, but are presented as a statement that students in the top x per cent of the class for a given year had a GPA of at least y . This distribution of averages weights each student's GPA equally regardless of the number of courses the student was enrolled in. Therefore, it varies slightly from the arguably more accurate weighted GPA comparison I used.

A random selection of students in a given year would (if the sample was large enough, or a sufficient number of samples were selected) result in 30 per cent of students being in the top 30 per cent of the class, 50 per cent being in the top 50 per cent, 75 per cent being in the top 75 per cent, and 25 per cent being in the bottom 25 per cent. This is a tautology. It is merely a statement that the sample is representative. The sample size of this natural experiment is twelve. Therefore, if this group were to exactly represent a random sample of the class, three or four students would be in the top 30 per cent (30 per cent of twelve is 3.6 students), six students would be in the top 50 per cent, nine students would be in the top 75 per cent, and three students would be in the bottom 25 per cent of the class by GPA. But there is nothing random about this sample. This sample is made up of the final twelve students accepted. Therefore, if the admissions process can accurately and precisely rank all applicants, these students would all be in the bottom 25 per cent. While I doubt that anyone involved

in any admissions process would make a claim that any process could result in such precision, it is reasonable to expect that generally speaking the students who score highest on the factors relevant to admission will tend towards the top of the class, and the students who score lowest on the factors relevant to admission will tend towards the bottom of the class. After all, if the students who are admitted with the highest combination of LSAT and GPA scores finish in the top portion of the class, those with the lowest LSATs and GPAs will necessarily rank relatively lower, and therefore tend toward the bottom of the class. While most or even all students may be considered successful, one would expect to see those with the lowest LSAT and GPA combination rank academically behind those with the highest LSAT and GPA combination.

Here are the GPA results for the entire first-year class in the 2020–2021 academic year:²

Chart 1: Distribution of Averages

The top 5% attained an average of 81.2% and over
The top 10% attained an average of 79.63% and over
The top 20% attained an average of 77.00% and over
The top 30% attained an average of 75.45% and over
The top 50% attained an average of 74.00% and over
The top 75% attained an average of 70.06% and over

How did these twelve students fare? None of the twelve students finished first year in the top 20 per cent of the class, based on GPA. This is not a surprising result. However, as the following chart shows, the final twelve students accepted into the program appear to have slightly outperformed the average student in the program. As a group they had one more student than expected (for an average cohort) in the top 50 per cent and top 75 per cent of the class, and one fewer student than expected in the bottom 25 per cent of the class. As a cohort, the dozen had a weighted GPA of 73.1806 per cent, which is .8194 below the entire class non-weighted GPA of 74.00 per cent.

2. University of Saskatchewan College of Law “Grade Distributions and Grading Guidelines” (last visited 3 November 2023), online: <law.usask.ca/students/jd-students/grade-distributions-grading-guidelines.php> [perma.cc/3542-MJFE].

Chart 2: Cohort Compared to Distribution of Averages

Grouping	GPA (%)	Expected # if random	Actual #
Top 30%	75.45 and higher	3.6	2
Top 50%	74.00 and higher	6	7
Top 75%	70.06 and higher	9	10
Bottom 25%	Below 70.06	3	2

In addition to comparing this cohort of students to the entire class, I conducted a second comparison to determine how the cohort compared to other students who were accepted in the general category. There were 104 students who were accepted in the general category in 2020–2021 and who completed first year final exams. Chart 3 below shows how the final twelve fared when compared only to students admitted in the general category, again using a weighted GPA. For ease of comparison, the numbers in parentheses are numbers from Chart 2 and relate to the entire class.

Chart 3: Cohort Compared to Distribution of Averages of General Admissions Category Only

Grouping	GPA (%)	Expected # if random	Actual #
Top 30%	76.07 (75.45) and higher	3.6	0 (2)
Top 50%	74.63 (74.00) and higher	6	3 (7)
Top 75%	71.87 (70.06) and higher	9	9 (10)
Bottom 25%	Below 71.87 (70.06)	3	3 (2)

As before, none of the final 12 students finished first-year in the top 20 per cent of students admitted in the general category, based on GPA. Comparing these students to the higher GPA of students admitted in the general category only, we see some slippage in their ranking. Two students dropped from the top 30 per cent into the top 50 per cent grouping. Four students dropped from the top 50 per cent to the top 75 per cent grouping, and one student dropped from the top 75 per cent to the bottom 25 per cent grouping. As a cohort, the final 12 had a weighted GPA of 73.1806 per cent, which is 1.4494 below the general category median GPA of 74.63. Importantly, the final 12 performed as expected of a representative sample in the bottom 25 per cent and top 75 per cent groupings. In other words, the very last students admitted based on LSAT and GPA show the same distribution as the general category students as a whole, with respect to being above or below the bottom 25 per cent of GPA ranking. If their

incoming ranking was an accurate prediction of ranking at the end of first-year, all 12 would be in the bottom 25 per cent of the GPA ranking.

There are other ways to compare how well these students performed beyond comparing their overall GPA to the entire class. We could examine their GPA in individual courses to that of all the students in the course. At the College of Law, all full-time first year students take the same classes. However, some students take less than a full load of courses and some first year Indigenous students take some courses during the summer immediately prior to the commencement of their first year. As a result, the number of students in every course is not identical. Each of the first-year courses has two sections. I produced a weighted GPA for each course. Each student is weighted equally in the weighted GPA, so a section of 65 students would have slightly less weight than a section of 68 students.

The following chart compares the GPA of the cohort of the final 12 to the overall class average on a course-by-course basis. Note that Kwayeskastasowin is a three credit unit course, and Legal Research and Writing is a two credit unit course. All other courses are five credit units each.

Chart 4: Cohort GPA Compared to Class by Class Average

Class	Class average (%)	Cohort points above or below	Average point variance per cohort student
Property	73.54	-2.46	-0.205
Torts	73.23	-7.76	-0.647
Constitutional	72.18	+17.87	+1.489
Contracts	72.68	-6.13	-0.511
Criminal	70.64	+8.32	+0.693
Kwayeskastasowin	75.92	+3.02	+0.252
Legal Research & Writing	73.56	+21.28	+1.773

The reference to “class average” is the mean³ of every student which completed the course. “Cohort points above or below” is the total number of percentage points scored above or below the class average, for all of the final 12 students. The average (per student) points above or below would be 1/12 of the figure shown.

The weighted GPA (mean) for the final 12 was 73.18 per cent. This is slightly above the weighted GPA for the class as a whole, and slightly

3. The mean is determined by adding all student grades together and dividing by the number of students. This is a different measure than the median, which is the centre point of the grades.

below the reported unweighted median for the class as a whole of 74 per cent.⁴

The data presented demonstrate that this cohort of students performed slightly above the weighted GPA of the class. Given this, and given the distribution of the students in each segment of the class as ranked by GPA, I suggest that these 12 students performed virtually as a microcosm of the class, except that they were not represented in the top 20 per cent of students by GPA.

Given this cohort's academic performance in first year as compared to the rest of the class, one would conclude that as applicants they should have been solid admission candidates—except they were not. They only had the opportunity to enter law school because a combination of pandemic-related concerns led to a one-time increase in admissions.

Conclusion

It is apparent that the final 12 students accepted, who in any other year would have been the first 12 students rejected (because they were on the waitlist, but just below the last student accepted), performed on average as well as the remainder of the class. These students significantly outperformed their ranking, which is to say that they outperformed many students, *all* of whom were accepted above them in the admissions process. This does not mean that the admissions process does not generally work—it simply means that at the margin it does not provide a valid predictor of student success, as measured by first-year GPA.

Certainly, one would assume that as one goes deeper into the pool of applicants (as ranked by index score) a point will be reached where applicants (should they be accepted) would be significantly weaker, and therefore perform at or near the bottom of the class. However, I suggest that these results demonstrate that applicants at the margin of acceptance can be expected to perform adequately, and in fact out-perform (in terms of GPA) many students ranked higher.

I hope that this data will give admissions committees confidence to identify additional desirable characteristics they would like to see in law students and graduates, and to use these additional characteristics to finalize their selections, at least at the margin. As an example, the College of Law at the University of Saskatchewan has identified 12 desirable graduate attributes.⁵ These attributes include having “strong interpersonal

4. This is the median because the College reports that 50 per cent of the first year class received a GPA of 74 per cent or higher. See Chart 2.

5. University of Saskatchewan College of Law, “University of Saskatchewan College of Law Desired Juris Doctor Graduate Attributes” (last visited 3 November 2023), online (pdf): <law.usask.

skills, empathy, and an ability to collaborate with others.”⁶ Since the existing criteria for accepting students does not accurately rank students at the margin between the last to be accepted and the first to be denied acceptance, perhaps it is time to identify and use additional criteria, at least for this portion of the incoming class. This “additional criteria” may be informed by descriptions of the characteristics law schools would like their students and graduates to possess, or they may be informed by other factors. Based on the performance of this cohort of the final 12 students, it would seem that when selecting law students at the margin, law schools would benefit from the use of some additional criteria, beyond the ranking of applicants based on their LSAT score and GPA.

ca/documents/students/jd/DesiredGraduateAttributes.pdf> [perma.cc/UE7C-M8KK].

6. *Ibid.*