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# OPTIMISTIC OVERCONFIDENCE: A STUDY OF LAW STUDENT ACADEMIC PREDICTIONS

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## I. INTRODUCTION

Every fall, new law students arrive on campuses to begin their legal studies. They are by turns nervous and excited knowing they will spend the next three years studying and debating legal rules, learning how to “think like a lawyer,” taking exams, writing papers, and participating in moot court and legal clinics. They will sacrifice three years of potential earnings to earn their J.D. Many will take on (sometimes substantial) debt.<sup>1</sup>

Most will be hoping to find meaningful work as lawyers or in allied fields. Students interested in public interest positions will vie for a small number of highly coveted spots.<sup>2</sup> Some students may hope to obtain a high-paying job in a profession in which starting salaries are bimodally distributed—with about half of post-graduate jobs paying between \$45,000 and \$75,000 per year and approximately 20% paying the market salary rate for “Big Law” firms (currently between \$190,000 and \$215,000).<sup>3</sup> Some may hope to practice in a particular location or legal market.

Students’ academic performance during law school is one key influence on these early career outcomes. Law school grades help determine who is

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1. ABA, 2020 LAW SCHOOL STUDENT LOAN DEBT 2–3 (2020), [https://www.americanbar.org/content/dam/aba/administrative/young\\_lawyers/2020-student-loan-survey.pdf](https://www.americanbar.org/content/dam/aba/administrative/young_lawyers/2020-student-loan-survey.pdf) [<https://perma.cc/VKP3-6CX6>] (“[T]he average debt of a law school graduate is around \$145,000 . . .”).

2. *See Fact vs. Fiction: Public Interest Careers*, YALE L. SCH., <https://law.yale.edu/student-life/career-development/students/career-pathways/public-interest/fact-vs-fiction-public-interest-careers> (last visited Apr. 17, 2023) [<https://perma.cc/Z55Y-LAF6>].

3. *Salary Distribution Curves*, NALP, <https://www.nalp.org/salarydistrib#2020> (last visited Apr. 17, 2023) [<https://perma.cc/C5UA-Q6LV>].

considered and selected for many post-graduate positions.<sup>4</sup> Academic performance matters, therefore, in determining whether students find the jobs they want following law school and how quickly they pay off their debt.

How accurate are these new students' expectations about how well they will perform academically in law school? A robust literature in psychology would suggest that they are likely to be optimistically overconfident, as humans tend to be.<sup>5</sup> They may *need* to be highly confident to be willing to take the risk of enrolling. That optimism—even somewhat unrealistic optimism—might also be useful in helping them succeed.

At the same time, there is some evidence that successful law students tend to be pessimistic and that a healthy dose of pessimism can be useful for practicing lawyers. This might suggest that law students are less prone to overconfidence than others.

This paper explores optimistic overconfidence among law students. We surveyed more than 600 law students at the beginning of their first year of law school, asking for their predictions about how they would perform relative to their peers in their first year. We found that students were overconfident, with the vast majority predicting that their academic performance would be above the median and three-quarters predicting that they would finish in the top 30%. Students' predictions, however, were unrelated to their ultimate first-year performance.

In Part II, we provide an overview of optimistic overconfidence, what we know about overconfidence among law students and lawyers, and how overconfidence may vary across individuals. In Part III, we describe our research design and methods. In Part IV, we report our findings—principally that incoming law students are both overconfident and poor predictors of how they will perform. In Part V, we explore what these results mean for law students and law schools. In Part VI, we briefly conclude.

## II. OPTIMISTIC OVERCONFIDENCE

Humans tend to be both optimistic and overconfident. We “tend to view the world through rose-colored glasses—often seeing ourselves and our prospects as better than they are.”<sup>6</sup> People are disposed to overestimate the likelihood that they will experience future positive events while underestimating the likelihood

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4. See David L. Chambers, *Law School Grades and Their Effects: The University of Michigan Law School Alumni Survey*, U. MICH. L. SCH. SCHOLARSHIP REPOSITORY 1, 6 (2019); RONIT DINOVIETZ ET AL., AFTER THE JD: FIRST RESULTS OF A NATIONAL STUDY OF LEGAL CAREERS 44 (2004); Richard Sander & Jane Bambauer, *The Secret of My Success: How Status, Eliteness, and School Performance Shape Legal Careers*, 9 J. EMPIRICAL LEGAL STUD. 893, 893–94 (2012). *But see, e.g.*, Jeffrey E. Stake, Kenneth G. Dau-Schmidt, & Kaushik Mukhopadhyaya, *Income and Career Satisfaction in the Legal Profession: Survey Data from Indiana Law Graduates*, 4 J. EMPIRICAL LEGAL STUD. 939, 968–75 (2007) (finding that law school GPA was not significantly associated with income 5 and 15 years into practice).

5. JENNIFER K. ROBBENOLT & JEAN R. STERNLIGHT, *PSYCHOLOGY FOR LAWYERS* 84 (2012).

6. *Id.*

of negative events.<sup>7</sup> People tend to, for example, think they are less likely than other people to get cancer, get in an accident, be a crime victim, or get divorced and to think that they are more likely to get a job, get tenure, or live longer.<sup>8</sup>

People are also inclined to have unrealistically positive views about their abilities, believing they are above average on various dimensions.<sup>9</sup> People think, for example, they are above-average drivers, leaders, and negotiators; that they are more intelligent and athletic than average; and that they are more ethical and fairer than other people.<sup>10</sup> They even think they are better than average at self-assessment.<sup>11</sup> Other research has shown a tendency toward overconfidence in people's judgments of the scope and limits of what they do and do not know (i.e., their metaknowledge).<sup>12</sup>

These aspects of optimism and overconfidence have been studied in a variety of contexts—with students, athletes, business professionals, and lawyers. Overconfidence is pervasive (though not universal) and can often be helpful professionally. But overconfidence also has its downsides, interfering with appropriate planning, motivating costly financial decisions, and resulting in disappointment when expectations are not met.

Because our focus is on law students, we look more closely at the research involving professionals, including lawyers, and students.

#### A. *Overconfidence in Professionals*

Professionals, across a wide variety of fields, have a tendency toward overconfidence. For example, a study of investment fund managers found that 74% believed they were above average at their jobs; most of the rest thought they were at least average.<sup>13</sup> A study of university faculty found that more than 90% rated themselves as above-average teachers, and two-thirds placed themselves in the top quarter.<sup>14</sup> A study of engineers found that 32-42% placed themselves in the top 5% of their peers.<sup>15</sup> Business leaders, entrepreneurs, and venture capitalists

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7. J.A. Shepperd, William M.P. Klein, Erika A. Waters, & Neil D. Weinstein., *Taking Stock of Unrealistic Optimism*, 8 *PERSPS. PSYCH. SCI.* 395, 395 (2013); Neil D. Weinstein, *Unrealistic Optimism About Future Life Events*, 39 *J. PERSONALITY & SOC. PSYCH.* 806, 807 (1980).

8. Weinstein, *supra* note 7, at 817.

9. David Dunning, Chip Heath, & Jerry M Suls, *Flawed Self-Assessment: Implications for Health, Education, and the Workplace*, 5 *PSYCH. SCI. PUB. INT.* 69, 72 (2004); Ethan Zell, Jason E. Strickhouser, Constantine Sedikides, & Mark D. Alicke, *The Better-Than-Average Effect in Comparative Self-Evaluation: A Comprehensive Review and Meta-Analysis*, 146 *PSYCH. BULL.* 118, 118 (2020).

10. Mark D. Alicke & Olesya Govorun, *The Better-Than-Average Effect*, in *THE SELF IN SOCIAL JUDGMENT* 85 (Mark D. Alicke et al., eds. 2005); Zell et al., *supra* note 9, at 121.

11. Emily Pronin, Daniel Y. Lin, & Lee Ross, *The Bias Blind Spot: Perceptions of Bias in Self Versus Others*, 28 *PERSONALITY & SOC. PSYCH. BULL.* 369, 369 (2002).

12. J. Edward Russo & Paul J.H. Schoemaker, *Managing Overconfidence*, 33 *SLOAN MGMT. REV.* 7, 8 (1992).

13. James Montier, *Behaving Badly*, *DRESDNER KLEINWORT WASSERSTEIN* 1, 3 (2006).

14. K. Patricia Cross, *Not Can, But Will College Teaching Be Improved?*, 17 *NEW DIRECTIONS FOR HIGHER EDUC.* 1, 1 (1977).

15. Todd R. Zenger, *Why Do Employers Only Reward Extreme Performance? Examining the Relationships Among Performance, Pay, and Turnover*, 37 *ADMIN. SCI. Q.* 198, 202 (1992).

are similarly overconfident about their enterprises;<sup>16</sup> medical professionals show overconfidence in making diagnoses;<sup>17</sup> and truck drivers overestimate their productivity.<sup>18</sup> A study of professionals working in various disparate industries—advertising, computers, data processing, money management, petroleum, pharmaceuticals, and security analysis—also found widespread overconfidence: members of each profession thought they knew more about their industry than they did.<sup>19</sup>

Lawyers have a professional responsibility to “[d]evelop[] a realistic sense of the limits of [their] own skills and knowledge.”<sup>20</sup> Lawyers may, therefore, be “among those in particular need of knowledge about where their expertise ends and the need for caution, advice, or research begins.”<sup>21</sup> But lawyers are not immune from the effects of overconfidence. Lawyers tend to rate themselves as better than other lawyers on skills like predicting case outcomes and traits like honesty.<sup>22</sup> Most magistrate judges (nearly 90%) believe their decisions are reversed less often than most of their peers.<sup>23</sup> Both civil and criminal lawyers, even those with substantial experience, have been found to exhibit overconfidence in predicting whether they will achieve their goals for the cases they handle.<sup>24</sup>

Optimistic overconfidence emerges in the context of legal negotiation as well.<sup>25</sup> Negotiators generally rate themselves as more competent and effective negotiators; more fair, honest, and trustworthy; better at controlling the

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16. Arnold C. Cooper, Carolyn Y. Woo, & William C. Dunkelberg, *Entrepreneurs' Perceived Chances for Success*, 3 J. BUS. VENTURING 97, 97 (1988); Laurie Larwood & William Whittaker, *Managerial Myopia: Self-Serving Biases in Organizational Planning*, 62 J. APPLIED PSYCH. 194, 194 (1977); Andrew L. Zacharakis & Dean A. Shepherd, *The Nature of Information and Overconfidence on Venture Capitalists' Decision Making*, 16 J. BUS. VENTURING 311, 328 (2001).

17. See, e.g., Eta S. Berner & Mark L. Graber, *Overconfidence as a Cause of Diagnostic Error in Medicine*, 121 AM. J. MED. S2, S6 (2008).

18. Mitchell Hoffman & Stephen V. Burks, *Worker Overconfidence: Field Evidence and Implications for Employee Turnover and Firm Profits*, 11 QUANTITATIVE ECON. 315, 316 (2020).

19. Russo & Schoemaker, *supra* note 12, at 9.

20. LEGAL EDUCATION AND PROFESSIONAL DEVELOPMENT—AN EDUCATIONAL CONTINUUM, REPORT OF THE TASK FORCE ON LAW SCHOOLS AND THE PROFESSION: NARROWING THE GAP 208 (1992); see also MODEL RULES OF PRO. CONDUCT, r. 1.1.

21. David Dunning, *Not Knowing Thyself*, CHRON. HIGHER EDUC. (May 5, 2006), <https://www.chronicle.com/article/not-knowing-thyself/> [<https://perma.cc/LLJ9-QMVB>].

22. RANDALL KISER, HOW LEADING LAWYERS THINK: EXPERT INSIGHTS INTO JUDGMENT AND ADVOCACY 102 (2011).

23. Chris Guthrie, Jeffrey J. Rachlinski, Andrew J. Wistrich, *Inside the Judicial Mind*, 86 CORNELL L. REV. 777, 814 (2001).

24. Jane Goodman-Delahunty, Pär Anders Granhag, Maria Hartwig, & Elizabeth F. Loftus, *Insightful or Wishful: Lawyers' Ability to Predict Case Outcomes*, 16 PSYCH. PUB. POL'Y & L. 133, 140 (2010). See also Elizabeth F. Loftus & Wilhem A. Wagenaar, *Lawyers' Predictions of Success*, 28 JURIMETRICS J. 437, 437 (1988) (finding that lawyers were overconfident they would win, especially when they were overconfident to begin with).

25. See generally Oren Bar-Gill, *The Evolution and Persistence of Optimism in Litigation*, 22 J.L. ECON. & ORG. 490, 491 (2006); Richard Birke & Craig R. Fox, *Psychological Principles in Negotiating Civil Settlements*, 4 HARV. NEGOT. L. REV. 1, 1 (1999); Margaret A. Neale & Max H. Bazerman, *The Effects of Framing and Negotiator Overconfidence on Bargaining Behaviors and Outcomes*, 28 ACAD. MGMT. J. 34, 45 (1985).

negotiation; and more likable than the other party.<sup>26</sup> Similarly, in final offer arbitration, both sides tend to be overconfident that the arbitrator will choose their offer.<sup>27</sup> In addition, plaintiff's lawyers frequently demand more to settle cases than they receive at trial and defense lawyers sometimes offer less (and sometimes substantially less) than they are ultimately required to pay.<sup>28</sup>

### B. Student Overconfidence

Students, too, routinely show optimistic overconfidence. Studies examining student assessments of their performance on exams, for example, find overconfidence in students' predictions as well as in their self-evaluations after the fact.<sup>29</sup> Students and student-athletes have also been found to be optimistically overconfident in predicting their future salary and career outcomes. Despite the fact that fewer than 2% of student-athletes in sports like basketball, hockey, and football will be drafted by a professional team,<sup>30</sup> 40-60% of students in these sports think that becoming a professional athlete is at least "somewhat likely" for them.<sup>31</sup> Finance students asked to estimate their future salaries one year, five years, and ten years after graduation exhibited "extreme" overconfidence in their expected earnings both five and ten years after graduation.<sup>32</sup> Another study found that most students surveyed (72%) predicted that they would repay their loans in ten years but that only 37% of students met this goal.<sup>33</sup>

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26. Roderick M. Kramer, Elizabeth Newton, & Pamela L. Pommerenke, *Self-Enhancement Biases and Negotiator Judgment: Effects of Self-Esteem and Mood*, 56 *ORG. BEHAV. & HUM. DECISION PROCESSES* 110, 120-22 (1993).

27. Margaret A. Neale & Max H. Bazerman, *The Role of Perspective-Taking Ability in Negotiations Under Different Forms of Arbitration*, 36 *INDUS. & LAB. REL. REV.* 378, 385 (1983); Max H. Bazerman & Margaret A. Neale, *Improving Negotiation Effectiveness Under Final Offer Arbitration: The Role of Selection and Training*, 67 *J. APPLIED PSYCH.* 543, 544 (1982).

28. Randall Kiser, Martin A. Asher, & Blakeley B. McShane, *Let's Not Make a Deal: An Empirical Study of Decision Making in Unsuccessful Settlement Negotiations*, 5 *J. EMPIRICAL LEGAL STUD.* 551, 567 (2008) (finding that plaintiffs made this sort of "decision error" in 61.2% of cases at an average cost of \$43,100 and that defendants erred in 24.3% of cases at an average cost of \$1,140,000).

29. See, e.g., Paul W. Grimes, *The Overconfident Principles of Economics Student: An Examination of a Metacognitive Skill*, 33 *J. ECON. EDUC.* 15, 20 (2002); Clifford Nowell & Richard M. Alston, *I Thought I Got an A! Overconfidence Across the Economics Curriculum*, 38 *J. ECON. EDUC.* 131, 131 (2007); Paul Sergius Koku & Anique Ahmed Qureshi, *Overconfidence and the Performance of Business Students on Examinations*, 79 *J. EDUC. BUS.* 217, 217 (2004).

30. Jake New, *A Long Shot*, *INSIDE HIGHER ED* (Jan. 26, 2015), <https://www.insidehighered.com/news/2015/01/27/college-athletes-greatly-overestimate-their-chances-playing-professionally> [<https://perma.cc/5F8J-HZ5B>]. See also DEREK BOK, *OUR UNDERACHIEVING COLLEGES* 285-86 (2006).

31. Just 1.2% of NCAA basketball players will be drafted by an NBA team, 0.8% of hockey players by an NHL team, and 1.6% of football players by an NFL team. See *Goals Association Wide Slides from 2020 Convention*, NCAA (Jan. 2020), [https://ncaaorg.s3.amazonaws.com/research/goals/2020AWRES\\_GOALS2020\\_con.pdf](https://ncaaorg.s3.amazonaws.com/research/goals/2020AWRES_GOALS2020_con.pdf) [<https://perma.cc/4M4X-73JR>].

32. Oliver Schnusenberg, *Overconfidence in Salary Expectations After Graduation*, 95 *J. EDUC. FOR BUS.* 513, 515 (2020). See also Stephen J. Hoch, *Counterfactual Reasoning and Accuracy in Predicting Personal Events*, 11 *J. EXPERIMENTAL PSYCH.: LEARNING, MEMORY, & COGNITION* 719, 723 (1985) (finding that business school students made overconfident predictions about the number and timing of the job offers they would receive).

33. See generally Hamish G.W. Seaward & Simon Kemp, *Optimism Bias and Student Debt*, 29 *N.Z. J. PSYCH.* 17, 18 (2000).

Although there is less research about law students, the existing research suggests that they too, tend to be overconfident.<sup>34</sup> One study of students who started law school in 1991 found that most of them had high expectations for their law school performance; more than three-quarters of them predicted that they would be in the top quarter of their class and virtually all of them (99%) thought that they would be in the top half of the class.<sup>35</sup> Another more recent study also found that law students were overconfident, with students on average predicting that they would perform at the 75<sup>th</sup> percentile.<sup>36</sup> Law students have also been found to be more confident in their own career prospects than in those of their peers—one study found that 52% were “very confident” that they would find a legal job after graduation, while only 16% of students were similarly confident in the prospects of most of their classmates.<sup>37</sup>

### C. Variations in Confidence

It should be clear that optimism and overconfidence are rampant. But not everyone is optimistically overconfident all the time. Dispositional optimism, for example, can influence the degree to which people are overly optimistic in their predictions.<sup>38</sup> In addition, the difficulty or perceived difficulty, or the commonness of a task, can influence whether people are over- or under-confident.<sup>39</sup>

One notable moderator is underlying skill level. People with low existing ability or knowledge are particularly likely to overestimate their abilities or knowledge – a phenomenon known as the Dunning-Krueger effect.<sup>40</sup> Low performers also struggle to accurately assess the performance of their peers.<sup>41</sup> It turns out that poor performers’ “lack of skill deprives them not only of the ability

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34. Jonathan F. Schulz & Christian Thoni, *Overconfidence and Career Choice*, PLOS ONE (Jan. 25, 2016), <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0145126&type=printable> [<https://perma.cc/8RT7-X5ML>].

35. LINDA WIGHTMAN, LSAC NATIONAL LONGITUDINAL BAR PASSAGE STUDY 70 (1998).

36. Hoorie I. Siddique, V. Holland LaSalle-Ricci, Carol R. Glass, Diane B. Arnkoff, & Rolando J. Diaz, *Worry, Optimism, and Expectations as Predictors of Anxiety and Performance in the First Year of Law School*, 30 COGNITIVE THERAPY & RES. 667, 672 (2006). No students predicted that they would be in the bottom third of the class. *Id.*

37. Martha Neil, *Survey: Most Pre-Law Students Confident re Own Prospects, but Dubious About Others*, ABA J. (Apr. 21, 2010, 11:25 PM), [https://www.abajournal.com/news/article/survey\\_most\\_pre-law\\_students\\_confident\\_re\\_own\\_prospects\\_but\\_dubious\\_about\\_o](https://www.abajournal.com/news/article/survey_most_pre-law_students_confident_re_own_prospects_but_dubious_about_o) [<https://perma.cc/2QYX-DQCC>].

38. Charles S. Carver & Michael F. Scheier, *Dispositional Optimism*, 18 TRENDS COGNITIVE SCI. 293, 293 (2014). Overconfidence has also been linked to a student’s field of study: in one study, first year students in Political Science, Law, Economics, and Business Administration tended to be generally overconfident; students from the Humanities tended to be underconfident. Schulz & Thoni, *supra* note 34.

39. Richard P. Larrick, Katherine A. Burson, & Jack B. Soll, *Social Comparison and Confidence: When Thinking You’re Better than Average Predicts Overconfidence (and When It Does Not)*, 102 ORG. BEHAV. & HUM. DECISION PROCESSES 76, 82–83 (2007); Don A. Moore & Paul J. Healy, *The Trouble with Overconfidence*, 115 PSYCH. REV. 502, 513 (2008).

40. Joyce Ehrlinger, Kerri Johnson, Matthew Banner, David Dunning, & Justin Kruger, *Why the Unskilled Are Unaware: Further Explorations of (Absent) Self-Insight Among the Incompetent*, 105 ORG. BEHAV. & HUM. DECISION PROCESSES 98, 99 (2008); Justin Kruger & David Dunning, *Unskilled and Unaware of It: How Difficulties in Recognizing One’s Own Incompetence Lead to Inflated Self-Assessments*, 77 J. PERSONALITY & SOC. PSYCH. 1121, 1121 (2009).

41. Kruger & Dunning, *supra* note 40, at 1126.

to produce correct responses but also of the expertise necessary to surmise they are not producing them.”<sup>42</sup> Higher performers, in contrast, show less overconfidence and may even exhibit underconfidence, especially as compared to lower performers.<sup>43</sup>

### III. METHODS

University of Illinois College of Law students were surveyed prior to beginning their first-year classes from 2014 to 2019, either during orientation or before they arrived on campus in the fall.<sup>44</sup> Of the 863 J.D. students matriculating during those years, 644 students (75%) responded to the survey at the beginning of their first year. Fifteen students did not provide a prediction about their relative first-year performance. The final sample of 629 students is described in Table 1.

TABLE 1: THE SAMPLE

	n	%
Gender		
Male	375	59.6%
Female	254	40.4%
Race/Ethnicity		
White	317	50.4%
Hispanic	26	4.1%
Black/African American	86	13.7%
Asian	35	5.6%
Multiple Categories	36	5.7%
Not Reported	129	20.5%
Graduation Year		
2017	123	19.6%
2018	73	11.6%
2019	121	19.2%
2020	130	20.7%
2021	92	14.6%
2022	90	14.3%
LSAT		<i>Mean = 158, Median = 159</i>
UGPA		<i>Mean = 3.50, Median = 3.57</i>
1L GPA		<i>Mean = 3.21, Median = 3.24</i>

42. David Dunning, Kerri Johnson, Joyce Ehrlinger & Justin Kruger, *Why People Fail to Recognize Their Own Incompetence*, 12 CURRENT DIRECTIONS PSYCH. SCI. 83, 83 (2003).

43. Kruger & Dunning, *supra* note 40, at 1126.

44. The data reported here are part of a larger project that was conducted with students matriculating in 2013 through 2018. In the first year of the study, students were not asked to predict their relative academic performance. Students were asked a variety of additional questions prior to their first year and surveyed again toward the end of their third year. These additional data are not reported here. Data collection for this study was approved by the University of Illinois Institutional Research Board.

Students were asked to predict their academic performance in their first year of law school:

Please indicate how you expect your grades from the first year of law school to compare to those of your classmates. Percentile ranks can range from 0 (*I am at the very bottom*) to 50 (*I am exactly in the middle*) to 100 (*I am at the very top*). Thus, for example, a percentile rank of 70 would indicate you expect to do better than 70% of your classmates and worse than 30% of them. A percentile rank of 20 would indicate that you expect to do better than 20% of your classmates and worse than 80% of them.

On a scale of 0 to 100, estimate the percentile rank of your first year of law school grades: \_\_\_\_\_<sup>45</sup>

Students also answered six questions about their dispositional optimism.<sup>46</sup> The scale ( $\alpha = .809$ ) constructed from these questions ranged from one (least optimistic) to five (most optimistic). Optimism scores spanned the full range of the scale,  $m = 3.5$ ,  $mdn = 3.67$ .

These survey data were supplemented with additional information about each student: LSAT score, undergraduate GPA (“UGPA”), and GPA from the first year of law school.<sup>47</sup>

## IV. RESULTS

### A. Student Overconfidence

As predicted, students as a group were optimistically overconfident in predicting their 1L class rank. The average student predicted that they would finish close to the top 25% of the class (74.9 percentile). Virtually all students (94.9%) predicted that they would finish at the 50<sup>th</sup> percentile or higher. More than three-quarters (78.2%) of students predicted they would finish in the top 30% of the class, half (53.1%) predicted they would finish in the top 20% of the class, and nearly one-quarter (22.4%) of students thought they would finish in the top 10% in the class. Just 6.2% of students thought they would finish in the top 5% of the

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45. Special thanks to Bill Pipal, who suggested including this question on the first-year survey.

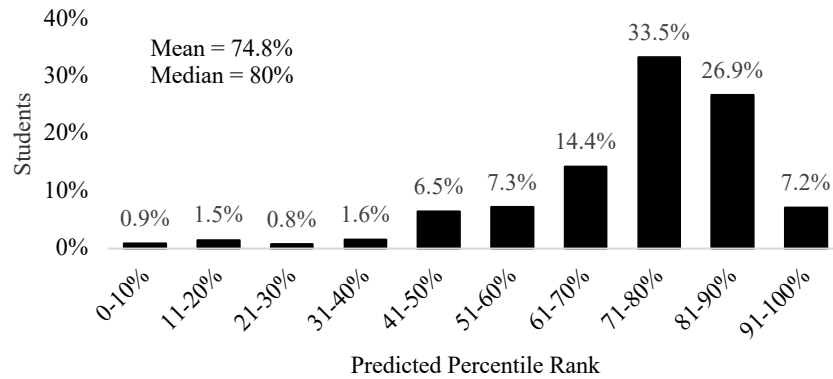
46. Michael F. Scheier, Charles S. Carver & Michael W. Bridges, *Distinguishing Optimism from Neuroticism (and Trait Anxiety, Self-Mastery, and Self-Esteem): A Reevaluation of the Life Orientation Test*, 67 J. PERSONALITY & SOC. PSYCH. 1063, 1063 (1994).

47. All students took the same classes and were subject to the same first-year grading curve. Students did not all have the same professors.



class, but thirteen students (2.1%) predicted they would finish at the very top of the class.<sup>48</sup> Students' predictions are summarized in Figure 1.

FIGURE 1: STUDENT PREDICTIONS OF PERCENTILE RANKING



### B. Accuracy of Predictions

Students' predictions of how they would rank were not significantly correlated with their actual first-year grades,  $r = .06$ ,  $p = .122$ .<sup>49</sup> Figure 2 displays students' predictions against their actual performance in the first year (using grade quartiles). By definition, students' ultimate ranks will be spread out along the whole range of percentiles (the dotted line in Figure 2).<sup>50</sup> But student predictions were comparatively high across grade quartiles (the solid line).

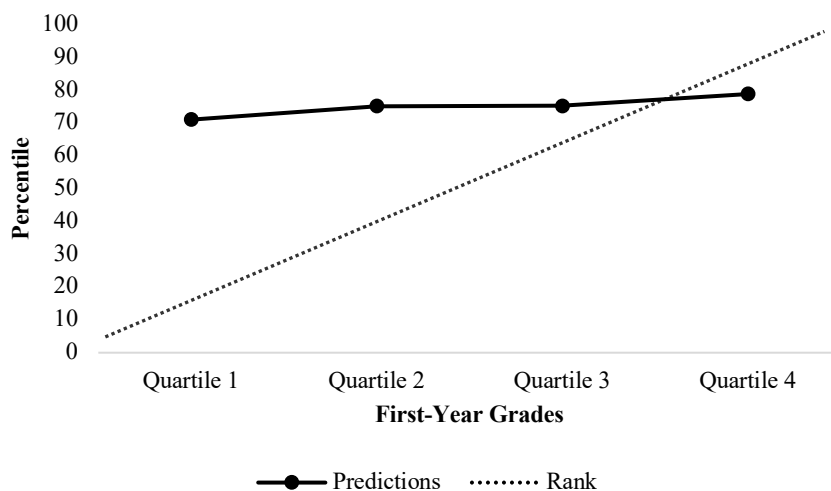
Given the high estimates made by students across the board, and consistent with the prior literature, the gap between predictions and outcomes was the biggest for those students who performed the least well. Overconfidence is substantial, in particular, for those in the bottom 25% percent of the 1L class. In contrast, and also in line with earlier studies, students finishing in the top quartile slightly underestimated their eventual 1L ranking,  $m = 78.9$ , one sample  $t(145) = -8.03$ ,  $p < .01$ .

48. Unsurprisingly, students clustered their responses around numbers ending in 0 or 5. For example, the most common responses were the 80th percentile (122 students), 90th percentile (97 students), 75th percentile (83 students), and 70th percentile (70 students). See JENNIFER K. ROBBENOLT & VALERIE P. HANS, *THE PSYCHOLOGY OF TORT LAW* 158 (2016) (describing the tendency to choose round numbers and focal fractions). There was no statistically significant difference in the predictions made by male and female students,  $F(1, 627) = 2.30$ ,  $p = .130$ . Nor were there statistically significant differences in the predictions made by students in different racial or ethnic categories,  $F(4, 495) = 1.76$ ,  $p = .135$ . But the sample sizes for some groups of underrepresented students were relatively small. Additional research should continue to address potential demographic variation with larger and more diverse samples.

49. This finding contrasts with those of one other study, which found a small positive correlation ( $r = .16$ ) between student predictions about how they would perform in the first year and their first-year class rank. Sid-dique et al., *supra* note 36, at 673.

50. The data do not include individual class rankings for each student.

FIGURE 2: FIRST-YEAR GRADES VS. PREDICTED RANK BY GRADE QUARTILE



NOTE: Students were grouped into quartiles based on their final first-year grades.

### C. *Are Students' Predictions Sensitive to Statistical Indicators?*

Students had available several key pieces of data that could have influenced the predictions they made of their percentile rank: their LSAT score, their UGPA, and the school's publicly available historical averages for these indicators (by quartile).<sup>51</sup> And, indeed, LSAT scores and UGPAs tend to be correlated with first-year grades.<sup>52</sup> In our sample, LSAT scores were significantly correlated with first-year grades,  $r = .41, p < .001$ .<sup>53</sup> UGPA was more weakly correlated with first-year grades, but still significantly so,  $r = .11, p = .009$ .<sup>54</sup> If a student entered law school well above or below the school's median or 75th percentile LSAT or UGPA, and knew as much, they may have relied on this information in predicting their eventual percentile rank.

#### 1. *Indicators and Predictions*

Students' estimated percentile ranks and LSAT scores were significantly, though modestly, correlated,  $r = 0.17, p < 0.001$ . The higher the student's LSAT score, the better the student thought they would do. Students were even less

51. See, e.g., *University of Illinois Standard 509 Information Report*, ABA (Dec. 9, 2020), <https://law.illinois.edu/wp-content/uploads/2020/11/2020-ABA-Standard-509-Report.pdf> [<https://perma.cc/7ULE-MFNC>] [hereinafter *509 Report*].

52. Alexia Brunet Marks & Scott A. Moss, *What Predicts Law Student Success? A Longitudinal Study Correlating Law Student Applicant Data and Law Student Outcomes*, 13 J. EMPIRICAL LEGAL STUD. 205, 230 (2016). But see Jeffrey S. Kinsler, *The LSAT Myth*, 20 ST. LOUIS U. PUB. L. REV. 393, 393 (2001) (finding the LSAT to be a "weak" predictor of overall law school grades at Marquette).

53. LSAT scores were correlated with 3L GPAs in our sample,  $r = .36, p < .01$ .

54. Undergraduate GPA was more closely correlated with 3L GPAs in our sample,  $r = .24, p < .01$ .

sensitive to their UGPA information, which was only marginally and slightly negatively correlated with their estimates,  $r = -.07$ ,  $p = .091$ .

## 2. “Splitters”

We looked separately at two types of “splitter” students: those with high (top quartile in the sample) LSAT scores but low (bottom quartile in the sample) UGPAs and those with high UGPAs but low LSAT scores. The predictions of these splitter students are summarized and compared to the full sample in Table 3.

Like most students in the sample, both types of splitters were confident they would end up in the top half of the class. Interestingly, however, high-UGPA/low-LSAT splitters were significantly less confident than the full sample, estimating on average that they would finish at the 65th percentile.<sup>55</sup> Just over half of this high-UGPA/low-LSAT group thought they would finish in the top 30%. In addition, not one of these students thought they would finish in the top 5% of the class.

In contrast, high-LSAT/low-UGPA splitters were far more confident, estimating on average that they would perform just above the 80th percentile.<sup>56</sup> Nearly 90% of this group thought they would be in the top 30%, and nearly 15% thought they would finish in the top 5% of the class.

TABLE 2: “SPLITTER” STUDENTS AS COMPARED TO ALL STUDENTS

	Mean	Top 50%	Top 30%	Top 20%	Top 10%	Top 5%	100 <sup>th</sup>
All students	74.9	94.5%	78.2%	53.1%	22.4%	6.0%	2.2%
High LSAT/Low UGPA	80.5	97.1%	88.6%	65.7%	34.3%	14.3%	5.7%
High UGPA/Low LSAT	65.5	86.7%	56.7%	31.7%	11.7%	0	0

NOTE: High LSAT or high UGPA is defined as being in the top quarter of scores in the sample; low LSAT or low UGPA is defined as being in the bottom quarter.

### D. Low Predictors

Only 32 students (5.2%) predicted that they would fall below the 50th percentile. On most dimensions, these students did not differ significantly from students who predicted that they would perform at or above the 50th percentile. Similar rates of male (5.3%) and female (4.7%) students predicted they would

55. This is less confident than the full sample mean of 74.9, one-sample  $t(59) = -3.49$ ,  $p < .001$ .

56. This is more confident than the full sample mean of 74.5, one-sample  $t(35) = 2.40$ ,  $p = .022$ . High LSAT/low UGPA splitter were also more confident than high UGPA/low LSAT splitters,  $t(93) = 3.79$ ,  $p < .001$ .

be below the 50th percentile.<sup>57</sup> Students who made these lower predictions did not differ from their more optimistic peers in UGPA<sup>58</sup> or optimism generally,<sup>59</sup> nor did they differ in their ultimate first-year GPAs.<sup>60</sup> Students who predicted that they would be below the 50th percentile did have lower LSAT scores on average ( $m = 155.8$ ) than did those who predicted that they would be at the 50th percentile or above ( $m = 158.4$ ),  $t(626) = 2.68$ ,  $p = .008$ .

### *E. Optimism*

Students varied in their tendency toward dispositional optimism. Consistent with our predictions, the higher a student's optimism score, the better they predicted that they would perform,  $r = .17$ ,  $p < 0.01$ .

## V. IMPLICATIONS

We find that law students are optimistically overconfident about how well they will perform in their first year. On average, students thought they would finish their first year of law school ahead of nearly 75% of their peers. Almost all students predicted they would finish their first year in the top half of the class, and more than two-thirds of students believed they would finish in the top 30%. The degree of overconfidence is particularly substantial for those who find themselves at the bottom of the class. Indeed, just 5% of students predicted that they would finish below the median. The vast majority of the students who end up in the bottom half of the class, therefore, did not expect to find themselves there when they started law school.

### *A. Numerical Indicators: LSAT and UGPA*

Prospective law students typically have information about their own and their law school's numerical indicators. It would, therefore, be reasonable for students to compare their own numerical indicators to the school's published quartiles when predicting their class rank.

The LSAT might be an especially useful data point. The exam is standardized and taken by all entering students, and LSAT scores are positively correlated with first-year grades. Student LSAT scores, however, were only modestly related to students' predictions of their percentile rank.

UGPAs could also inform students' predictions, as UGPAs also tend to be positively correlated with first-year grades. But the relationship between UGPA and students' predictions was not statistically significant. Unlike LSAT scores, undergraduate grades are not standardized. Different schools, different majors, and even different coursework within a major can have different grading scales,

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57. There were too few students making these low predictions to test differences among racial and ethnic groups. Future research ought to continue to explore potential differences.

58.  $t(602) = -1.09$ ,  $p = .278$ .

59.  $t(623) = .57$ ,  $p = .567$ .

60.  $t(612) = -.18$ ,  $p = .855$ .

curves, and rigor.<sup>61</sup> For example, engineering grades are notoriously low, yet engineering majors tend to perform well in law school.<sup>62</sup> Students may recognize this unreliability and tend to base their predictions on other factors.

Also interesting in this regard is the patterns of confidence shown by students whose academic indicators are “split.” Students with relatively high LSAT scores but relatively low UGPAs tend to be more confident in their predictions than students with the opposite type of split. This pattern is consistent with the possibility that students give more weight to their LSAT score when projecting their performance. In addition, these predictions are consistent with observed patterns of law school admission offers and scholarship packages. According to one study, “high-LSAT/low-UGPA candidates are far more likely to win admission and scholarship offers than low-LSAT/high-UGPA candidates.”<sup>63</sup> It could be that high-LSAT/low-UGPA splitters gain additional self-assurance from what they know about their law school application performance or scholarship offers and come into orientation more confident than their high-UGPA/low-LSAT peers. That said, our sample had more high-UGPA/low-LSAT splitters ( $n = 63$ ) than high-LSAT/low-UGPA splitters ( $n = 36$ ).

### B. *Wishful Thinking*

There are a variety of reasons why student predictions may tend to be optimistically overconfident. Students may simply struggle to assess their abilities. This may be particularly so for lower performing students, who may be less equipped to accurately evaluate what they do and do not know.

In addition, beyond their numerical indicators, students may not have much basis for predicting how they will perform relative to their peers. Despite the proliferation of advice to new law students, in many respects, students enter law school with a dearth of information. They are encountering a new and intellectually challenging environment, have little experience with the type of exams that are given across the first-year curriculum, do not yet know what it means to “think like a lawyer,” and have not yet (or have only just) met their peers. These conditions of uncertainty can create a fertile environment for overconfidence.<sup>64</sup> Moreover, in comparing themselves to their peers, students are likely to have more information about (egocentrism) and to focus on (focalism) their own high levels of accomplishment than the credentials of their peers. Many students enter law school following a successful undergraduate career and may picture themselves at the top of the class based on their prior academic success.<sup>65</sup>

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61. See Michael A. Bailey, Jeffrey S. Rosenthal, & Albert Yoon, *Grades and Incentives: Assessing Competing Grade Point Average Measures and Postgraduate Outcomes*, 41 *STUD. HIGHER EDUC.* 1548, 1548 (2014); Marks & Moss, *supra* note 52, at 236–38.

62. See Marks & Moss, *supra* note 52.

63. *Id.* at 247.

64. David Armor & Shelly Taylor, *Situated Optimism: Specific Outcome Expectancies and Self-Regulation*, 30 *ADV. EXPERIMENTAL SOC. PSYCH.* 309, 350 (1998).

65. KATHRYNE M. YOUNG, *HOW TO BE SORT OF HAPPY IN LAW SCHOOL* 24 (2018).

Importantly, students also *want* to perform well. Students are taking on an additional three years of school at a high cost. Their performance in law school has significant implications for where they will go and what they will do once they graduate. More generally, “people rarely plan to fail.”<sup>66</sup> Thus, the predictions students reported may well reflect their aspirations.

The desirability of an outcome tends to influence predictions of its likelihood.<sup>67</sup> In the academic context, studies have found that students’ predicted grades tend to be associated with their desired grades.<sup>68</sup> It is agreeable to think about a desirable outcome (and more aversive to think about a less optimal outcome), so we tend to focus our attention there.<sup>69</sup> We look for and credit reasons why that positive outcome is attainable, thinking about the behaviors that will lead us to success and ignoring potential impediments.<sup>70</sup> When predicting our own future behavior, we tend to focus on our ideal selves and what we aspire to and are capable of, rather than on our more practical, and less ideal, day-to-day behavior.<sup>71</sup> Even if students comprehend that half of the student body will finish in the bottom half of the class, it is easy for them to convince themselves that “it won’t be me.”

It is worth noting the bounds on this tendency to be overconfident. Although there is a clear tendency to predict better performance than average, students are less inclined to predict that they will be at the very top of the class. Students in the top quartile of grades only predicted that on average they would be at the 79th percentile. This is consistent with evidence that high-performers are less likely to be overconfident—and are sometimes even underconfident—in their abilities, perhaps in part because they overestimate the performance of their peers.<sup>72</sup> Students may also be hesitant to brag or may not want to “jinx” a positive

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66. Armor & Taylor, *supra* note 64, at 323.

67. See generally John R. Chambers & Paul D. Windschitl, *Biases in Social Comparative Judgments: The Role of Nonmotivated Factors in Above-Average and Comparative Optimism Effects*, 130 PSYCH. BULL. 813 (2004); Jennifer M. Logg, Uriel Haran, & Don A. Moore, *Is Overconfidence a Motivated Bias? Experimental Evidence*, 147 J. EXPERIMENTAL PSYCH.: GEN. 1445, 1447 (2018); Zlatan Krizan & Paul D. Windschitl, *The Influence of Outcome Desirability on Optimism*, 133 PSYCH. BULL. 95, 95 (2007).

68. See, e.g., Michael J. Serra & Kenneth G. DeMarree, *Unskilled and Unaware in the Classroom: College Students’ Desired Grades Predict Their Biased Grade Predictions*, 44 MEMORY & COGNITION 1127, 1131 (2016). See generally Zlatan Krizan & Paul D. Windschitl, *Wishful Thinking About the Future: Does Desire Impact Optimism?*, 3 SOC. & PERSONALITY PSYCH. COMPASS 227 (2009).

69. See Chambers & Windschitl, *supra* note 67, at 813; Krizan & Windschitl, *supra* note 68, at 227–28.

70. Armor & Taylor, *supra* note 64, at 322–23; Chambers & Windschitl, *supra* note 67, at 813; Krizan & Windschitl, *supra* note 68, at 227–28.

71. Armor & Taylor, *supra* note 64, at 323; Yifat Kivetz & Tom R. Tyler, *Tomorrow I’ll Be Me: The Effect of Time Perspective on the Activation of Idealistic Versus Pragmatic Selves*, 102 ORG. BEHAV. & HUM. DECISION PROCESSES 193, 195 (2007).

72. See, e.g., Kruger & Dunning, *supra* note 40, at 1131; Ehrlinger et al., *supra* note 40, at 115.

result.<sup>73</sup> Or they may want to exceed their expectations rather than fail to meet them and experience the resulting disappointment.<sup>74</sup>

C. *The Double-Edged Sword of Optimism and Overconfidence*

It might be tempting to turn directly to a discussion about how to disabuse or “debias” students of their overconfidence. But it is first useful to think more deeply about the full range of effects such optimistic overconfidence might have.

As an initial matter, there might be good reasons to want students to have realistic expectations. Students would ideally base their decisions about whether and where to attend law school on accurate information and predictions. The ability to realistically assess what they know and don’t know can be important for students and practitioners alike. Accurate predictions by students might also help them to avoid unnecessary disappointment, minimizing the likelihood that their predictions and outcomes will be significantly misaligned. In addition, accurately calibrated students might have a more realistic sense of what lies ahead of them and what they need to do to reach their goals. In contrast, overly optimistic students might not fully or accurately assess the risks or obstacles associated with their plans. To take one example, overconfidence contributes to the “planning fallacy,” in which people underestimate what it will take for them to complete a task, persisting in their optimistic forecasts even when their own past experiences would suggest that the project will take longer to complete.<sup>75</sup>

In addition, there is some evidence that even a degree of pessimism can be adaptive for both law students and lawyers.<sup>76</sup> Operating with prudence, privileging “caution, skepticism, and ‘reality-appreciation’” can benefit lawyers in their role of anticipating and dealing with the host of potential problems that can arise for clients in their transactions or in litigation.<sup>77</sup>

On the other hand, some degree of optimism and confidence can be useful as well. Optimism “serve[s] a wide-variety of cognitive, affective and social

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73. See Emily Pronin, Daniel M. Wegner, Kimberly McCarthy, & Sylvia Rodriguez, *Everyday Magical Powers: The Role of Apparent Mental Causation in the Overestimation of Personal Experience*, 91 J. PERSONALITY & SOC. PSYCH. 218, 229 (2006); Jane L. Risen & Thomas Gilovich, *Why People Are Reluctant to Tempt Fate*, 95 J. PERSONALITY & SOC. PSYCH. 293, 294 (2008).

74. Krizan & Windschitl, *supra* note 68, at 229. See also A. Peter McGraw, Barbara A. Mellers, & Ilana Ritov, *The Affective Costs of Overconfidence*, 17 J. BEHAV. DECISION MAKING 281, 292 (2004); Wilco W. van Dijk, Marcel Zeelenberg, & Joop van der Pligt, *Blessed Are They Who Expect Nothing: Lowering Expectations as a Way of Avoiding Disappointment*, 24 J. ECON. PSYCH. 505, 506 (2003).

75. See, e.g., Roger Buehler, Dale Griffin & Johanna Peetz, *The Planning Fallacy: Cognitive, Motivational, and Social Origins*, 43 ADVANCES EXPERIMENTAL SOC. PSYCHOL. 1, 3 (2010).

76. Jason M. Satterfield, John Monahan, & Martin E. Seligman, *Law School Performance Predicted by Explanatory Style*, 15 BEHAV. SCI. & L. 95, 98 (1998). But see Kevin L. Rand, Allison D. Martin, Amanda M. Shea, *Hope, But Not Optimism, Predicts Achievement Performance of Law Students Beyond Previous Academic Achievement*, 45 J. RES. PERSONALITY 638, 685 (2011) (finding no association between optimism and grades); Siddique et al., *supra* note 36, at 669.

77. Martin E. Seligman, Paul R. Verkuil, & Terry H. Kang, *Why Lawyers Are Unhappy*, 23 CARDOZO L. REV. 33, 40 (2001).

functions” and is generally associated with wellness and life satisfaction,<sup>78</sup> including among law students.<sup>79</sup> Indeed, one group of people that tends to make more accurate predictions are those who are depressed.<sup>80</sup> Optimism might be useful in inspiring students to go to law school.<sup>81</sup> And, having higher expectations going into a negotiation can lead to better outcomes.<sup>82</sup>

Importantly for students, optimism may motivate hard work. Optimism is associated with increased motivation, goal orientation, effort, and persistence.<sup>83</sup> Expecting to succeed can help to prompt behaviors (like studying) that are likely to lead to positive outcomes.

Positive illusions, such as optimism and overconfidence, are also associated with stronger coping mechanisms that can serve to buffer the effects of any disappointment.<sup>84</sup> New lawyers may similarly find an optimistic explanatory style beneficial as they cope with law firms’ hierarchical structures and focus on billable hours.<sup>85</sup>

#### D. *Learning to Grapple with Overconfidence*

Law schools and law students must grapple with the reality that many students may have overly optimistic expectations when they enter their first year of law school. Optimism is pervasive, difficult to eliminate, and can be an asset in law practice. Schools should certainly provide students with information relevant to predicting their academic performance. But students and law schools should also work together to capitalize on the benefits of optimism and to manage its downsides.

##### 1. *Transparency*

At a basic level, schools should make available and students should consider information that is relevant to predicting outcomes. In addition to the

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78. See, e.g., Shelley E. Taylor & Jonathon D. Brown, *Illusion and Well-Being: A Social Psychological Perspective on Mental Health*, 103 PSYCH. BULL. 193, 193 (1988); Zell et al., *supra* note 9, at 131. But see also Richard W. Robins & Jennifer S. Beer, *Positive Illusions About the Self: Short-Term Benefits and Long-Term Costs*, 80 J. PERSONALITY & SOC. PSYCH. 340, 340 (2001) (finding that self-enhancement bias was positively associated with well-being and self-esteem in the short term, but that this effect lessened over time).

79. Rand et al., *supra* note 76; Suzanne C. Segerstrom et al., *Optimism Is Associated with Mood, Coping, and Immune Change in Response to Stress*, 74 J. PERSONALITY & SOC. PSYCH. 1646, 1649 (1998). See also Suzanne C. Segerstrom, *Optimism and Resources: Effects on Each Other and on Health over 10 Years*, 41 J. RES. PERSONALITY 772, 772–73 (2007).

80. Taylor & Brown, *supra* note 78, at 196.

81. Rose Trevelyan, *Optimism, Overconfidence and Entrepreneurial Activity*, 46 MGMT. DECISION 986, 996–97 (2008).

82. See generally Russell Korobkin, *Aspirations and Settlement*, 88 CORNELL L. REV. 1 (2002).

83. Armor & Taylor, *supra* note 64, at 311–12; Krizan & Windschitl, *supra* note 68, at 227–28; Taylor & Brown, *supra* note 78, at 198. See generally ALBERT BANDURA, SELF-EFFICACY: THE EXERCISE OF CONTROL (1997); Jeffrey C. Valentine, David L. DuBois, & Harris Cooper, *The Relation Between Self-Beliefs and Academic Achievement: A Meta-Analytic Review*, 39 EDUC. PSYCH. 111 (2004).

84. Taylor & Brown, *supra* note 78, at 201.

85. Catherine G. O’Grady, *Cognitive Optimism and Professional Pessimism in the Large-Firm Practice of Law: The Optimistic Associate*, 30 L. & PSYCH. REV. 23, 25, 37–41 (2006).



information about their own and schools' numerical indicators, students should be alerted to and pay attention to information about the salary structure of the profession and the historical job attainment of schools' graduates. The ABA attempts to make the realities of the job market transparent by requiring schools to annually report a range of information, including bar passage rates and an employment summary for recent graduates.<sup>86</sup> The National Association for Law Placement ("NALP") also makes information about law graduate salaries available, including the bimodal distribution of starting salaries.<sup>87</sup> Students may also benefit from a better understanding of law school grading curves. Most new law students have primarily experienced undergraduate academic environments in which curved grading was not the norm.

## 2. *Active Optimism*

Realistically, however, information transparency is not likely to eliminate the sort of optimistic overconfidence displayed by students. Nor is experience or feedback likely to significantly reduce overconfidence.<sup>88</sup>

In addition, the tendency for people to see themselves as better-than-average is a bias at the group level,<sup>89</sup> and not all students will be overconfident or have the same goals. There is clear overconfidence: 95% of students predicted their grades would be above the median. But some students will turn out to have made relatively accurate predictions. Others will be underconfident. In addition, although the vast majority of students predict that their grades will be above the median, some students do predict that their grades will rank toward the bottom of the class.<sup>90</sup> It is important to pay attention to this full range of individual students.

Moreover, it is clear that optimism has its benefits. It would not do to diminish the drive that can come from optimism or discourage students whose grades will not be at the top of the class but who will make good lawyers who thrive at the bargaining table or in the courtroom.<sup>91</sup> Students may also be well served as lawyers by learning to balance a mix of optimism and realism. Lawyers frequently need to be able to look at problems from multiple perspectives, to both

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86. See, e.g., *id.* See also Maureen O'Rourke, *Transparency and Its Limits*, 49 SYLLABUS 2, 3 (2018).

87. *Salary Distribution Curves*, *supra* note 3. The good news is that research has found that optimistic biases are smaller when people are making decisions about whether to engage in a particular course of action. Armor & Taylor, *supra* note 64, at 352.

88. Daniel J. Simons, *Unskilled and Optimistic: Overconfident Predictions Despite Calibrated Knowledge of Relative Skill*, 20 PSYCHONOMIC BULL. & REV. 601, 603 (2013).

89. Zell et al., *supra* note 9, at 123.

90. As with the high predictions, some of these low predictions will be accurate; others will not. For example, one student who predicted he would be in the 15<sup>th</sup> percentile had a 4.0 GPA at the end of the first year.

91. See Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admissions Decisions*, 36 L. & SOC. INQUIRY 620, 621 (2011) (defining and measuring a variety of dimensions of lawyer effectiveness). See also, e.g., Neil W. Hamilton, *Changing Markets Create Opportunities: Emphasizing the Competencies Legal Employers Use in Hiring New Lawyers (Including Professional Formation/Professionalism)*, 65 S. C. L. REV. 567, 571–77 (2014).

cooperate and compete, and to act both as objective advisors and advocates.<sup>92</sup> Learning how to capitalize on different outlooks may help students to begin to develop this sort of flexibility of mind.

There is also evidence to suggest that “substituting relatively pessimistic (or conservative) assessments for unrealistically optimistic ones may simply make people more unhappy and less enthusiastic about their undertakings, less persistent in pursuing them, and more concerned about the future, without necessarily improving the accuracy of their assessments.”<sup>93</sup> A number of commentators have therefore suggested that some combination of optimism and realism is ideal.<sup>94</sup> Practicing attorneys, too, identify both prudence and positivity as important characteristics of good lawyers.<sup>95</sup> Schools, therefore, might work with students to help them find a balance of optimism and realism, to develop a more nuanced understanding of the challenges that they face, and to help them develop and maintain good behavioral plans.

As a key component of this approach, law schools can help students engage in “active” rather than passive optimism. Individuals who are actively optimistic perceive that they are capable of actively managing the relevant obstacles.<sup>96</sup> Fostering active optimism could be combined with coaching students about the likely challenges they will encounter and how to effectively meet them. Schools can work with students to help them develop and implement realistic plans for navigating their new environment and how they will study.

To develop practical and effective plans for how they will approach their studies, students should work to mix some realism in with their optimism. One strategy that has been shown to be successful in addressing overconfidence is taking an “outside” perspective. An outside perspective asks the predictor to ignore the specifics of her own individual situation and instead focus on the statistical probabilities.<sup>97</sup> One study found that asking students about their own numerical indicators and those of their peers before asking them to predict their academic performance moderated students’ overconfidence.<sup>98</sup> They were still overconfident, but notably less so.<sup>99</sup> Similarly, taking an outside perspective

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92. See generally Jennifer K. Robbennolt & Vikram D. Amar, *The Role of Lawyers and Law Schools in Fostering Civil Public Debate*, 52 CONN. L. REV. 1093 (2021).

93. Armor & Taylor, *supra* note 64, at 362.

94. *Id.* at 352; Dan Lovallo & Daniel Kahneman, *Delusions of Success: How Optimism Undermines Executives’ Decisions*, HARV. BUS. REV. (July 2003), <https://hbr.org/2003/07/delusions-of-success-how-optimism-undermines-executives-decisions> [<https://perma.cc/A7AQ-W5K4>]; Frank Pajares, *Self-Efficacy Beliefs in Academic Settings*, 66 REV. EDUC. RSCH. 543, 565 (1996); M.J. C. Forgeard & M. E. P. Seligman, *Seeing the Glass Half Full: A Review of the Causes and Consequences of Optimism*, 18 PRATIQUES PSYCH. 107, 115 (2012); Serra & DeMarree, *supra* note 68, at 1135.

95. ALI GERKMAN & LOGAN CORNETT, FOUNDATIONS FOR PRACTICE: THE WHOLE LAWYER AND THE CHARACTER QUOTIENT 2 (2016).

96. Armor & Taylor, *supra* note 64, at 341. See also Seligman et al., *supra* note 77, at 43. See generally Gabriele Oettingen & Doris Mayer, *The Motivating Function of Thinking About the Future: Expectations Versus Fantasies*, 83 J. PERSONALITY & SOC. PSYCH. 1198 (2002).

97. Daniel Kahneman & Dan Lovallo, *Timid Choices and Bold Forecasts: A Cognitive Perspective on Risk Taking*, 39 MGMT. SCI. 17, 25 (1993).

98. *Id.*

99. *Id.*

helps people make more realistic estimates of how long projects—like writing a paper—will take to complete.<sup>100</sup>

The most successful debiasing strategies involve thinking specifically about the reasons a particular prediction might *not* come true.<sup>101</sup> One way to do this is to engage in a process of “prospective hindsight.”<sup>102</sup> This involves asking “people to do a time travel into the future and to imagine why their project failed.” In the law school context, one could ask students to imagine receiving a lower final course grade than expected. This might help them to “identify potential causal paths that do not come to mind in foresight, thereby creating awareness for the pitfalls on their way.”<sup>103</sup> Considering potential stumbling blocks in this way creates the opportunity to think more deeply about how to address them.

Students may also benefit from learning strategies to help them effectively implement the plans that they generate. Setting concrete goals and specific plans for implementing them can be effective tools.<sup>104</sup> Similarly, developing concrete “if-then” strategies for what to do when distraction or poor habits beckon can help students develop more productive work and study behaviors.<sup>105</sup> Precommitment devices and strategies like “temptation bundling” have also been shown to be effective in motivating less pleasant tasks.<sup>106</sup>

### 3. *Coping with Disappointment*

Finally, given the inherent properties of law school grading curves and the optimistic overconfidence that students will inevitably still experience, schools can work with students to help them cope with the disappointment many of them will experience when their optimistic expectations are not met. As sociologist and law professor Katie Young put it, many law students will “have never

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100. *Id.* at 24–25.

101. *See, e.g.,* Hoch, *supra* note 32, at 721; Asher Koriat, Sarah Lichtenstein, & Baruch Fischhoff, *Reasons for Confidence*, 6 J. EXPERIMENTAL PSYCH.: HUM. LEARNING & MEMORY 107, 109–10 (1980). *See also* Russo & Schoemaker, *supra* note 12, at 11.

102. Kirsten Wüst & Hanno Beck, “*I Thought I Did Much Better*”—*Overconfidence in University Exams*, 16 J. INNOVATIVE EDUC. 310, 326 (2018).

103. *Id.* at 326.

104. *See, e.g.,* Peter M. Gollwitzer & Pascal Sheeran, *Implementation Intentions and Goal Achievement: A Meta-Analysis of Effects of Processes*, 38 ADV. EXPERIMENTAL SOC. PSYCH. 69, 70 (2006).

105. *Id.* *See* ROBBENOLT & STERNLIGHT, *supra* note 5, at 134–35.

106. *See* Angela L. Duckworth, Katherine L. Milkman, & David Laibson, *Beyond Willpower: Strategies for Reducing Failures of Self-Control*, 19 PSYCH. SCI. PUB. INTEREST 102, 107 (2018). Temptation bundling involves “committing to enjoy a given instantly gratifying activity *only* when simultaneously engaging in a behavior requiring self-control.” *Id.*

worked so hard to be average.”<sup>107</sup> Some students will feel like imposters<sup>108</sup> or experience stress, anxiety, or depression.<sup>109</sup>

Some good news is that although optimism might lead to disappointed expectations, optimism is also associated with more effective coping mechanisms.<sup>110</sup> These mechanisms and students’ psychological immune systems<sup>111</sup> will help moderate disappointment. Students’ expectations may also change over the course of the first semester or year as they receive feedback and as exams loom.<sup>112</sup> But there will be disappointment, and schools should help students put it into perspective.

Again, a mix of optimism and realism is warranted. It is, of course, useful to help students learn to diagnose and address any weaknesses in their academic performance.<sup>113</sup> Students can be encouraged and taught to take a growth mindset that focuses on challenges as opportunities to learn and develop<sup>114</sup> and to cultivate the skills to effectively respond to and positively use feedback.<sup>115</sup>

But it is also important to help students think broadly about the range of traits and abilities that characterize good lawyers, only some of which are evaluated on first-year exams.<sup>116</sup> Effective lawyers will develop various skills and attributes that include intellectual and cognitive skills, research and information gathering abilities, good communication, the ability to plan and organize, conflict resolution skills, entrepreneurship, the ability to work well with others, and good character.<sup>117</sup>

Students can also learn to reorient their approach to thinking about success. It can be helpful to remind students that the group they are being compared to has changed. As Young tells students: “[I]t is not that you shouldn’t be here; it is that you have finally reached the top. Congratulations! You are with people

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107. YOUNG, *supra* note 65.

108. Dena M. Bravata et al., *Prevalence, Predictors, and Treatment of Impostor Syndrome: A Systematic Review*, 35 J. GEN. INTERNAL MED. 1252, 1252 (2020); Emma D. Cohen & Will R. McConnell, *Fear of Fraudulence: Graduate School Program Environments and the Imposter Phenomenon*, 60 SOC. Q. 457, 457 (2019).

109. See, e.g., Jerome M. Organ, David B. Jaffe, & Katherine M. Bender, *Suffering in Silence: The Survey of Law Student Well-Being and the Reluctance of Law Students to Seek Help for Substance Use and Mental Health Concerns*, 66 J. LEGAL EDUC. 116, 117 (2016); Kennon M. Sheldon & Lawrence Krieger, *Does Legal Education Have Undermining Effects on Law Students? Evaluating Changes in Motivation, Values, and Well-Being*, 22 BEHAV. SCI. & L. 261, 262 (2004); Nancy Soonpaa, *Stress in Law Students: A Comparative Study of First Year, Second-Year, and Third-Year Students*, 36 CONN. L. REV. 353, 356 (2004).

110. Armor & Taylor, *supra* note 64, at 343.

111. Daniel T. Gilbert, Elizabeth C. Pinel, Timothy D. Wilson, Stephen J. Blumberg, & Thalia P. Wheatley, *Immune Neglect: A Source of Durability Bias in Affective Forecasting*, 75 J. PERSONALITY & SOC. PSYCHOL. 617, 619 (1998).

112. See, e.g., Grimes, *supra* note 29, at 20–21.

113. See Ruth Vance & Susan Stuart, *Of Moby Dick and Tartar Sauce: The Academically Underprepared Law Student and the Curse of Overconfidence*, 53 DUQ. L. REV. 133, 151 (2015).

114. See generally CAROL S. DWECK, *MINDSET: THE NEW PSYCHOLOGY OF SUCCESS* (2006).

115. See generally DOUGLAS STONE & SHEILA HEEN, *THANKS FOR THE FEEDBACK: THE SCIENCE AND ART OF RECEIVING FEEDBACK WELL* (2014).

116. See generally DOUGLAS O. LINDER & NANCY LEVIT, *THE GOOD LAWYER: SEEKING QUALITY IN THE PRACTICE OF LAW* (2010); Shultz & Zedek, *supra* note 91, at 629–30.

117. Shultz & Zedek, *supra* note 91, at 629–30 (identifying 26 skills and characteristics of effective lawyers). See also GERKMAN & CORNETT, *supra* note 95; Hamilton, *supra* note 91, at 572.

like yourself, with similar aptitudes and levels of preparation.”<sup>118</sup> She advises them:

[I]n law school, it is no longer productive to view your academic life through the competitive lens through which you have been socialized to view it. Until now, consciously or not, you have likely grown accustomed to competing with others for a sense of success (and perhaps even self-worth). But now you are training to be a lawyer and you need to adjust your internal drive so that your sense of success come from things like communicating with a difficult client, understanding a new case, or collaborating on a tough appeal. For endeavors like these, it is not useful to think about whether you are a better lawyer than anyone else. It is only useful to think about whether you are a better lawyer today than you were yesterday.<sup>119</sup>

The inevitable challenges of law school present opportunities for students to learn and develop these sorts of professional skills—a sense of internal motivation, strategies for rebounding from a difficult course or semester, the willingness to ask for and incorporate feedback from professors and peers, knowing when to say no to an extra commitment, and learning how to balance a sense of optimism with a dose of realism.

### E. Future Research

This study was conducted at a single law school and explored just one type of optimistic overconfidence.<sup>120</sup> The implications of our findings may vary from school to school. Across law schools, most students will find a job; nearly three-fourths (72%) of 2020 law school graduates nationwide were employed in bar passage-required jobs ten months after graduation.<sup>121</sup> But some will not find a job and others may struggle to find a job that satisfies them or may take on debt that is difficult to repay. Overconfidence among students at schools that struggle to place large numbers of graduates in legal jobs<sup>122</sup> may cause students to make devastating financial decisions. On the opposite end of the spectrum, at a few highly ranked schools, grades are less focal and are less connected with job outcomes.<sup>123</sup>

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118. YOUNG, *supra* note 65, at 25.

119. *Id.* at 25–26. See generally LARRY KRIEGER, CREATE SUCCESS WITHOUT STRESS IN LAW SCHOOL AND YOUR CAREER: APPLYING NEW SCIENCE FOR YOUR HAPPIEST, HEALTHIEST LIFE IN THE LAW (2022); NANCY LEVIT & DOUGLAS O. LINDER, THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW (2010).

120. See Don A. Moore & Derek Schatz, *The Three Faces of Overconfidence*, 11 SOC. & PERSONALITY PSYCH. COMPASS 1, 2–6 (2017) (distinguishing overestimation, overplacement, and overprecision); Zell et al., *supra* note 9, at 125 (detailing four different methods of evaluating comparative self-evaluation). We also employed one particular measure of optimism. See Forgeard & Seligman, *supra* note 94, at 109–11 (distinguishing dispositional optimism and optimistic explanatory style but finding similar effects).

121. Karen Sloan, *Law Grads Hiring Report: Job Stats for the Class of 2020*, LAW.COM (Apr. 26, 2021, 12:51 PM), <https://www.law.com/2021/04/26/law-grads-hiring-report-job-stats-for-the-class-of-2020/> [<https://perma.cc/656K-S7JA>].

122. See *Employment Outcomes*, ABA, <https://abarequireddisclosures.org/EmploymentOutcomes.aspx> (last visited Apr. 19, 2023) [<https://perma.cc/Z42C-PE7F>].

123. DINOVTZER ET AL., *supra* note 4, at 42.

Future studies should explore these dynamics across a broader range of law schools and students, looking at schools throughout the country that vary in rank and geography and considering other demographic and socioeconomic factors. Exploration of a wider range of positive illusions and self-beliefs will shed additional light on first-year law students' expectations about their potential performance.

## VI. CONCLUSION

Psychologist Daniel Kahneman identifies overconfidence as the bias he would most like to change if he had a “magic wand” but notes that it is “built so deeply into the structure of the mind that you couldn’t change it without changing many other things.”<sup>124</sup> This study adds to the breadth of research on human overconfidence. First-year law students, like other students and professionals, assessed their first-year academic prospects as being better than most of their peers. Their predictions were not significantly related to their ultimate performance, and their academic indicators and dispositional optimism were only modestly correlated with their estimates.

The optimistic overconfidence displayed by students has the potential to be both an asset and an obstacle. Some measure of optimism and confidence (even overconfidence) may serve these students well in their careers. But so too will the ability to predict problems, make objective projections, and engage in accurate self-evaluation. Law school provides an opportunity for students to develop the capacity to draw on their optimism when it is useful while cultivating skills that allow them to be realistic when necessary.

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124. David Shariatmadari, *Daniel Kahneman: 'What Would I Eliminate If I Had a Magic Wand? Overconfidence'*, GUARDIAN (July 18, 2015, 4:00 PM), <https://www.theguardian.com/books/2015/jul/18/daniel-kahneman-books-interview> [<https://perma.cc/9863-Z5U3>].