

2014

The Berkeley Transactional Practice Project Competencies/Skills Survey

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University of California, Berkeley



The Berkeley Transactional Practice Project

Competencies / Skills Survey; 2014

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Background

- Business Law Curriculum Coordination at Berkeley Law (Boalt Hall)
- For last several (~10) years...
 - Advised/lobbied by judges, attorneys, alumni and students to increase course offerings that enhance business competencies for students headed for transactional work
 - E.g.: Financial Statement Analysis / Accounting / Financial Valuation / Strategy & Org. Behavior / Spreadsheet skills
 - Many law firms / vendors have started “boot camps” to teach these competencies to new attorneys, often at substantial cost
 - Frequent Query: “Why can’t they get this stuff in Law School?”



Proliferation of private-sector programs in “business skills” in recent years...

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ACC Association of Corporate Counsel

BOSTON UNIVERSITY Boston University School of Management Executive Leadership Center

Business Ed

Home

MINI MBA

2014 Dates:

- May 6-8, 2014 (LA)
- June 11-13, 2014
- September 17-19
- December 3-5, 2014

*This program will be held in Los Angeles, California 90036)

This two-and-a-half-day program provides a competitive environment for participants to gain knowledge in critical MBA topics at the end of the day.

Skadden Associates' Comprehensive Education Program

LegalWeek

Home Jobs Law

The Firm recognizes that its success is not only dependent on its core business but also on its ability to attract and retain top law firm talent.

In order to provide its Associates' Comprehensive Education Program, Skadden will offer eight-week training for associates participating in thirteen internships in Planning & Administration, Development, and Business Development while managing four weeks of business training in their respective areas. The program is necessary to...

XFINITY

Where am I? > Home >

Debevoise & Plimpton announces mini-MBA scheme for New York associates

Author: Friederike Heine

25 Aug 2011 | 11:23

Tags: Education

Debevoise & Plimpton is set to roll out a mini-MBA scheme for its New York offices.

From this September, all first-year associates in Debevoise & Plimpton's New York office will participate in a mini-MBA program.

Milbank@Harvard

Milbank Announcing Mini-MBA Program

February 9, 2011 – We are proud to announce a new program for Milbank associates with Harvard Law School. Through this program, a law firm will offer its first-year associates the opportunity to study business law, utilizing Harvard Law School's resources.

"We are delighted to initiate this program, which will provide our first-year associates with a unique opportunity to study business and law at the intersection of the two disciplines."

California LAWYER A DAILY JOURNAL PUBLICATION

WestlawNext Reason #1 to use GAIN GREAT WITH FEW

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NEWS YOU CAN USE

Firming-Up First Year Associates

by Leslie Gordon

October 2012

This month at Morrison & Foerster, dozens of first-year associates will forgo drafting briefs and closing documents to instead study financial analysis, valuation, and project management. And rather than logging billable hours, the freshman lawyers will earn a stipend by spending 40 hours a week on their course assignments.



Background

- Heeding this advice, Berkeley Law has substantially enhanced its course coverage in the above competency areas
 - Mixture of lecture / problem-based instruction
- But: Task Force's (and ABA's) proposals don't explicitly list these areas as "example" courses that would fulfill new requirements
 - Reasons are unclear, at least to us.
- Purpose of survey: to gauge what transactional lawyers view as important competencies / skills for a new lawyer

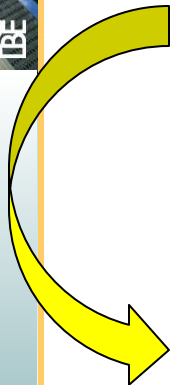


Task force competencies recommendations (June 2013)

Credit for the law school training units would be given for stand-alone courses, or for clinical work integrated into the core curriculum in such a way that it is part of and complements existing doctrinal classes; or it may take the form of earned credit units in externships, clerkships, or other apprenticeship-type work. Furthermore, in an effort to encourage greater integration with experiential learning, law schools may certify portions of courses to count towards satisfying this requirement. For those who elect to satisfy this requirement during law school, 15 units of coursework would be required from among the following subject areas:

- Oral presentation and advocacy
- Advanced legal research and writing (excluding first year legal research and writing)
- Negotiation and alternative dispute resolution (i.e. mediation, arbitration)
- Client counseling, effective client communication, and problem solving for clients in practice settings
- Witness interviewing and other investigation and fact-gathering techniques
- Law practice management and the use of technology in law practice
- Project management, budgeting and financial reporting
- Practical writing (e.g. drafting of contracts and other legal instruments, drafting of pleadings)
- Preparation of cases for trial during the pre-trial phase, including e-discovery
- Trial practice
- Basics of the justice system, including how courts in California are organized and administered, and what responsibilities lawyers have as officers of the court
- Professional civility and applied ethics (i.e. ethics in practice settings)⁵¹

Why doesn't this language take care of the problem?



The above list of subject areas is illustrative, is not intended to be exclusive, and is subject to further refinement in the implementation stage. Credit toward the 15-unit requirement, to the extent it falls within the parameters of one of the designated categories, may be received for in-the-field experience such as hours devoted to legal clinic work or in judicial or other governmental externships, and to the extent it is earned for in-class work, courses may entitle students to full or partial credit (thus permitting law schools to give appropriate levels of credit for integrated curricula involving a combination of experiential and doctrinal education). The 15 units may also overlap with the units required in Section B. below.



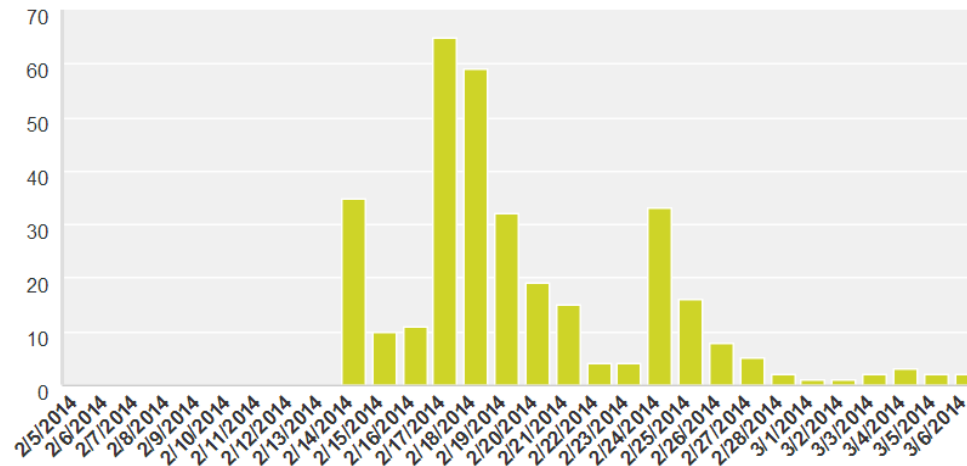
Threshold Issue: What constitutes a “competency / skill”?

- Not explicitly defined in task force reports (nor in those of many other national / state task forces)
- Our survey operates under the following 3-part definition as it pertains to transactional law:
 1. Not a traditional doctrinal course (or a strict subset of one)
 2. Enhances students’ capacities to confront practical problems across many doctrinal areas of practice
 3. Recognized by the profession to be “critical” to the successful transition into the practice of law
- Note: *This definition not tied to modality of delivery (e.g., experiential) as pre-condition for inclusion/exclusion*
 - Deliberate: survey allows us to evaluate that dimension separately



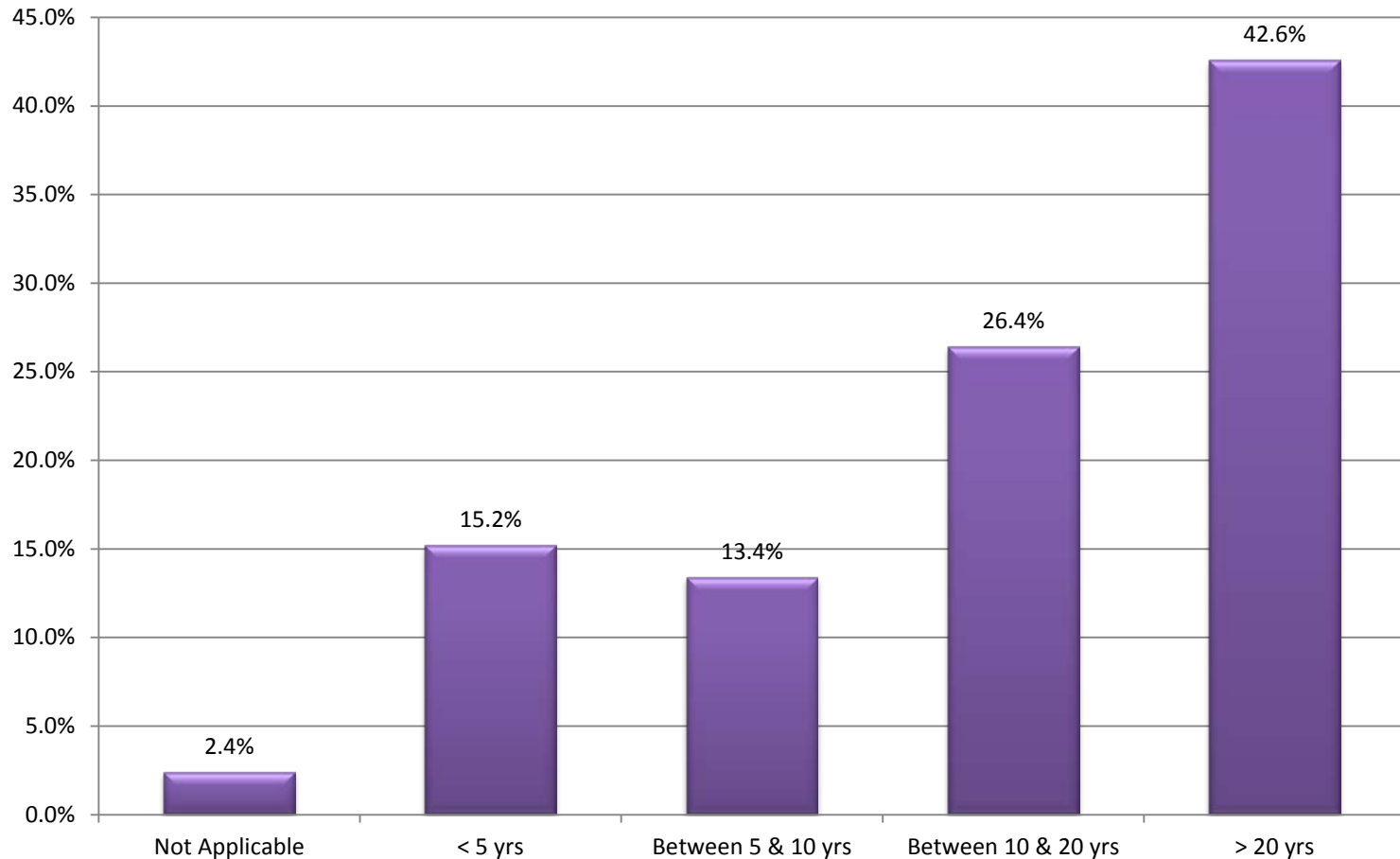
The Berkeley Transactional Practice Project Survey

- Web based instrument directed at specialists in transactional law (though other could fill it out too)
- N=329 responses in all, collected between Feb. 14 and March 6.
- Specific overtures made to law firms, general counsel, ABA committees on Business Law and M&A; several national legal practice blogs



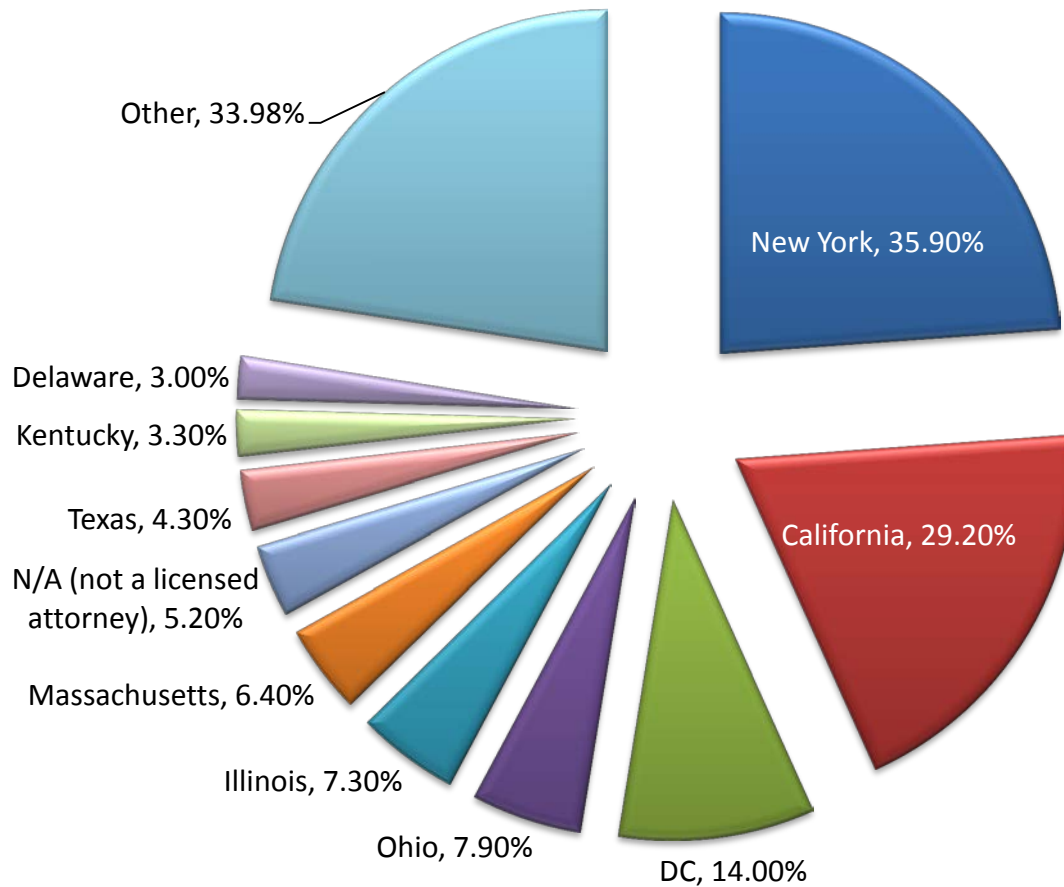


Respondents are, on the whole, experienced attorneys





They are admitted to practice in a variety of jurisdictions (esp. CA and NY)

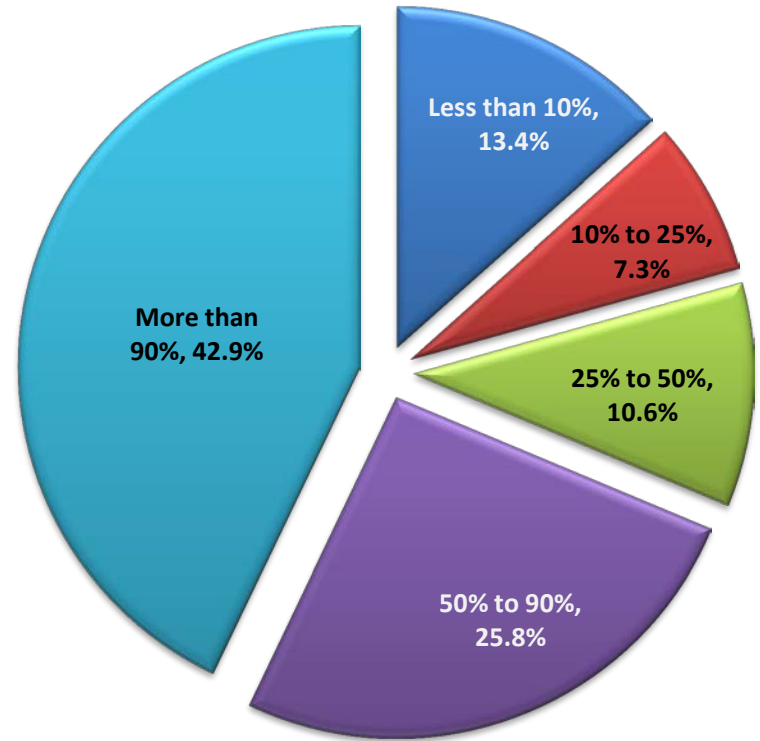
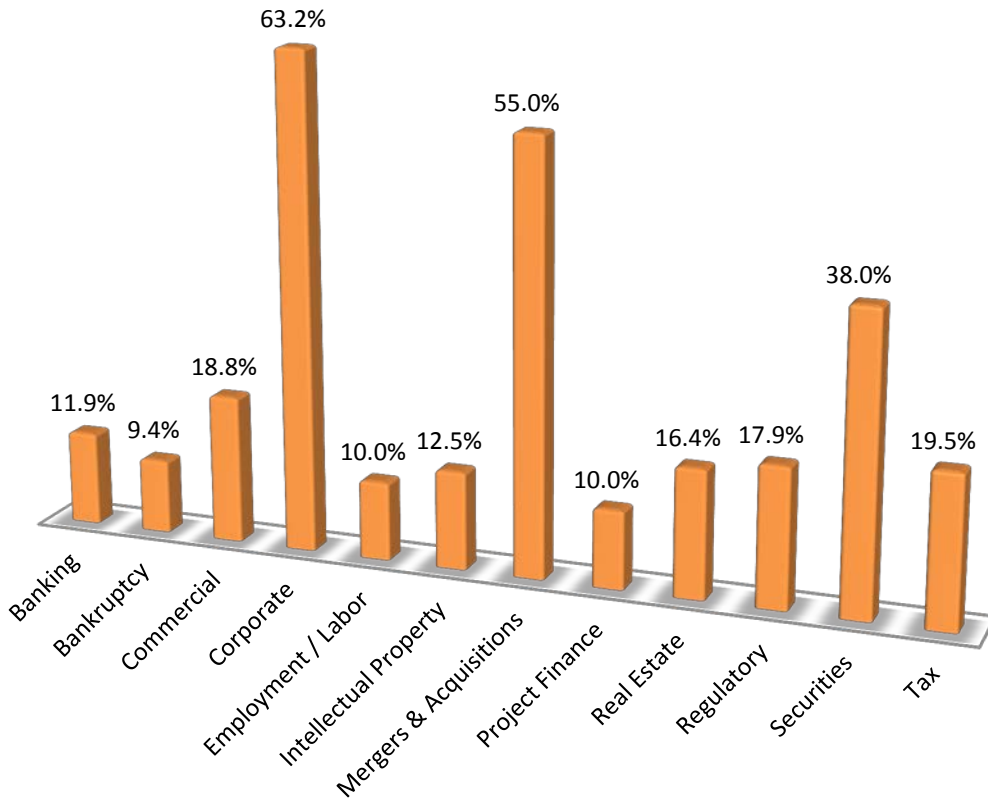




Respondents practice in a large array of areas; most are transactional lawyers

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Practice Area / Specialization*

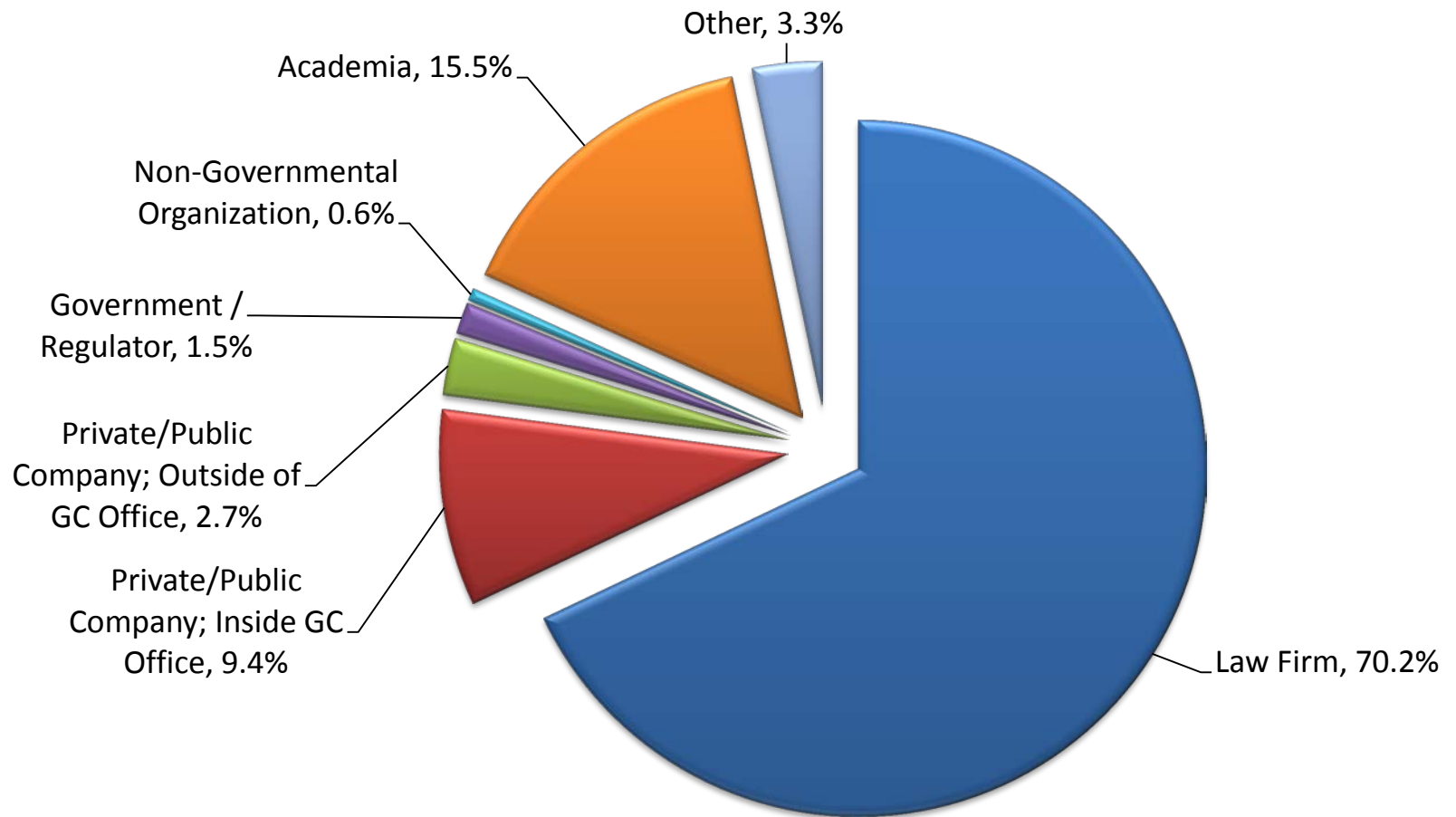


Percentage of Work that is "Transactional"

* Respondents were allowed to list multiple practice areas.; thus categories sum to more than 100%

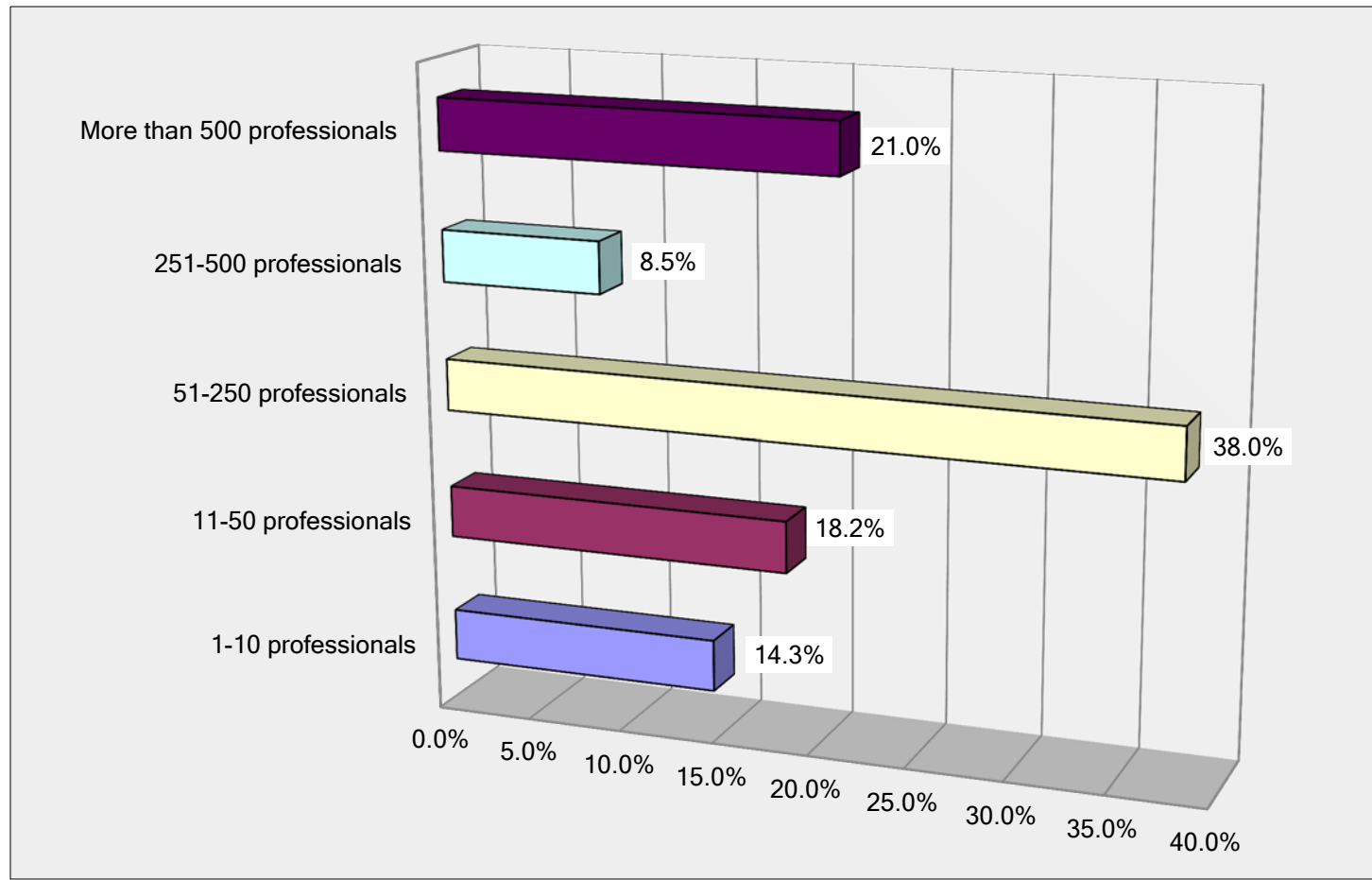


Respondents principally work in law firms



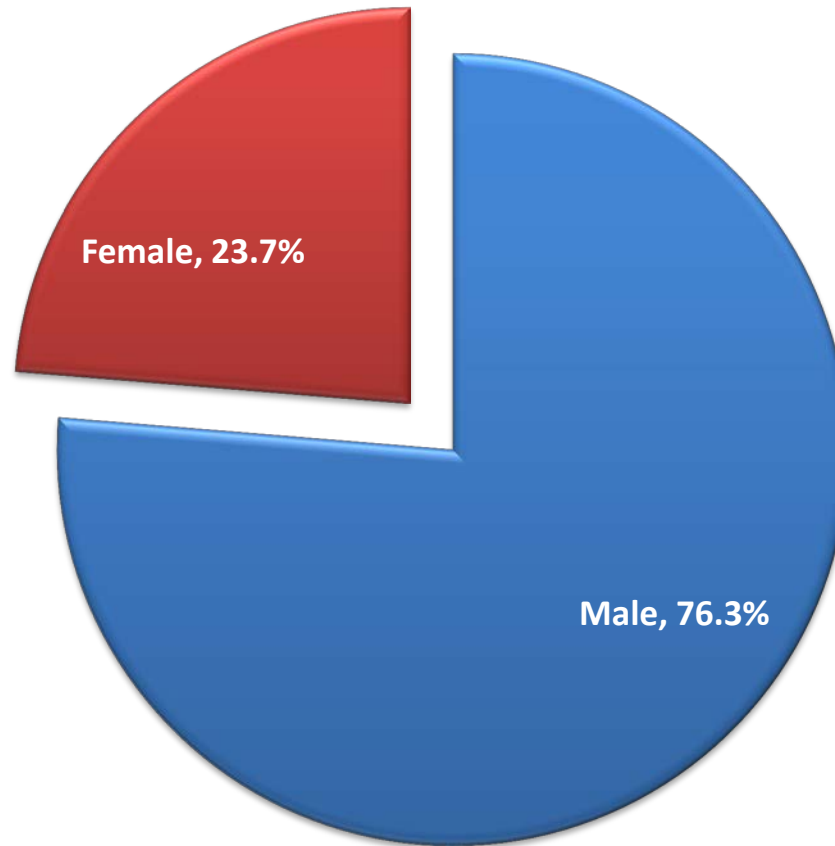


There is substantial heterogeneity in the size of their establishment

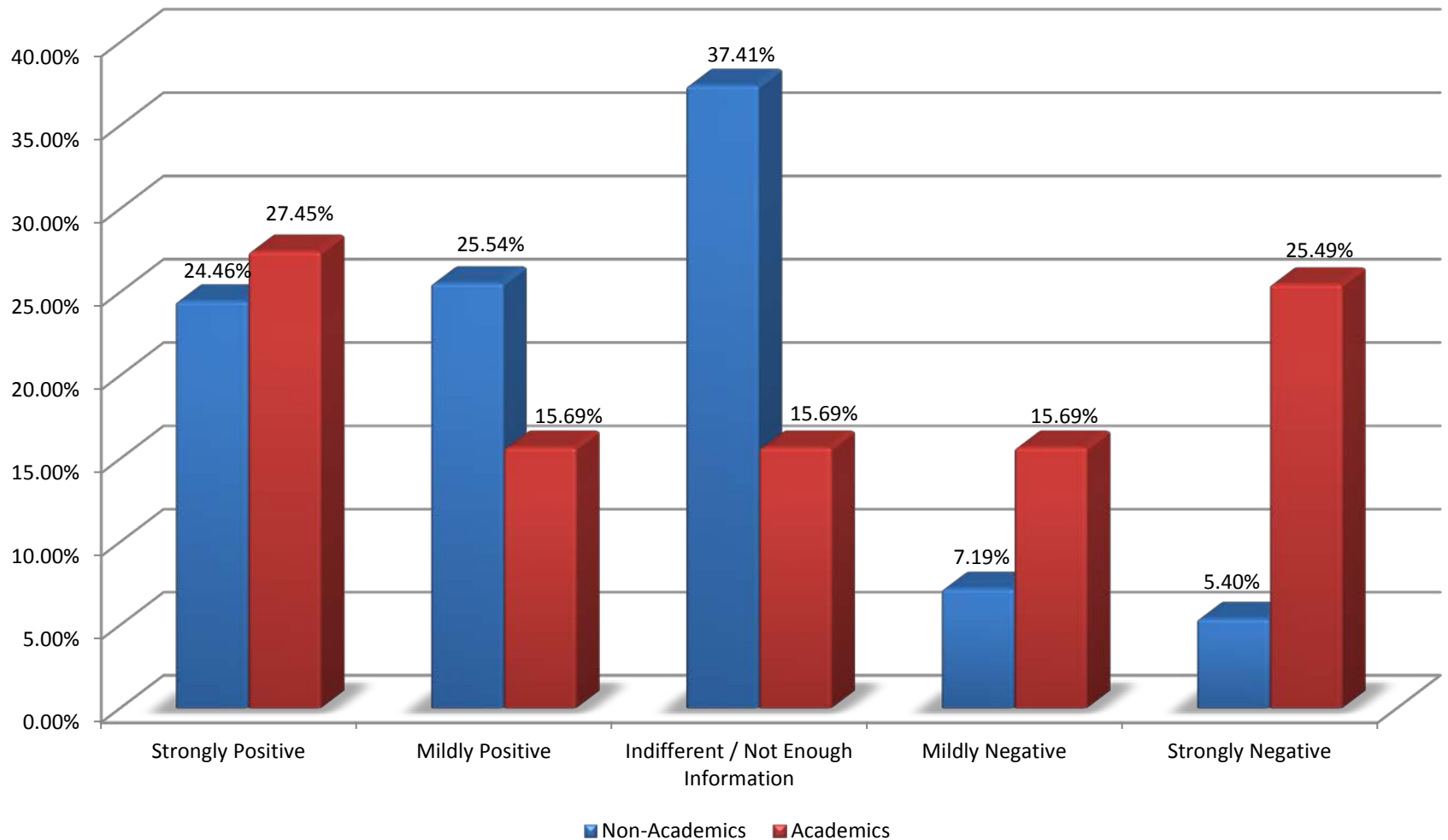




Respondents' Gender Composition



Q12: What is your degree of support for efforts underway ... to mandate minimum skills / competencies training for law students?





Q13: Assessing importance of various candidate skills competencies

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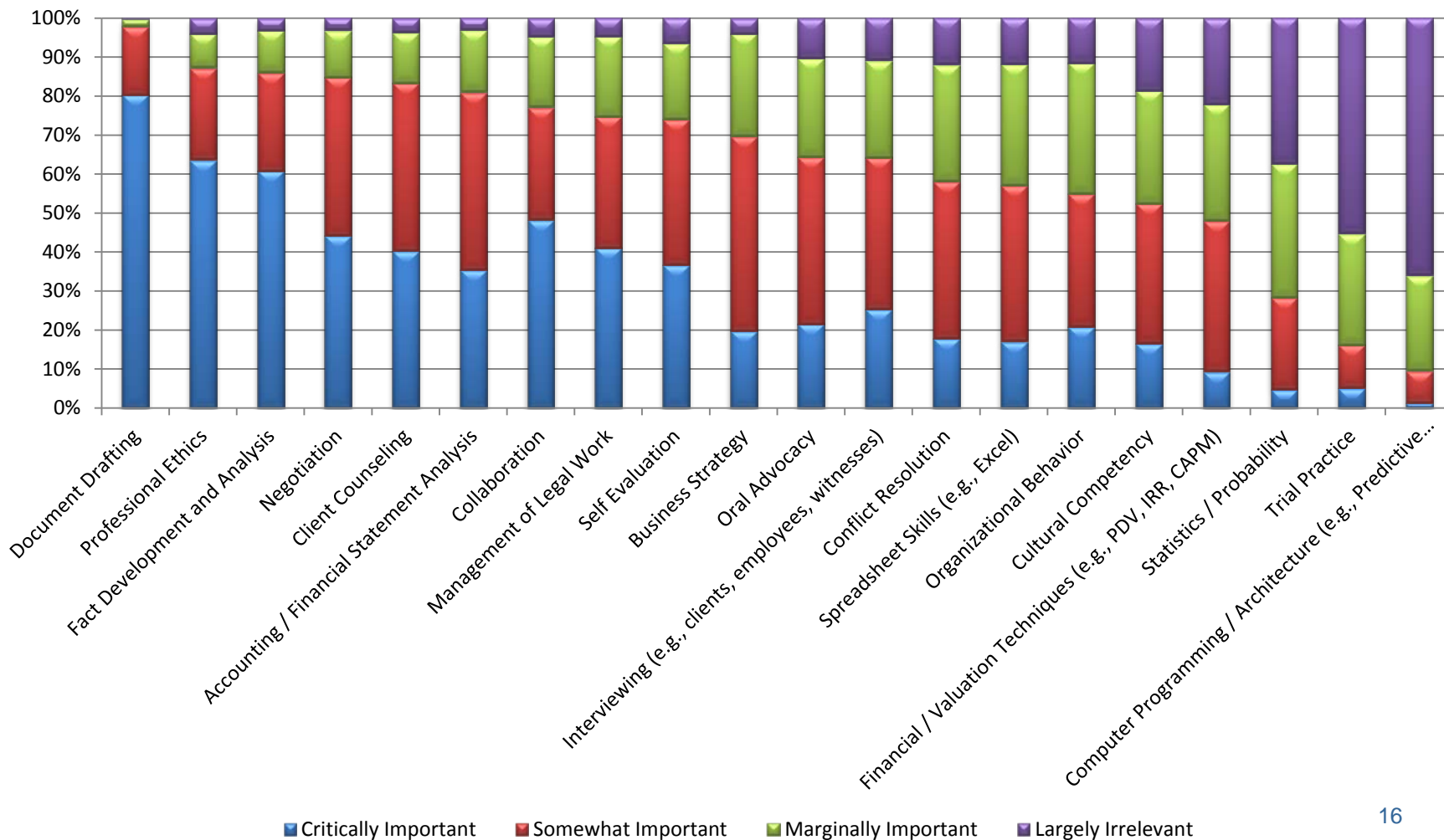
* 13. In light of your area of expertise, please evaluate the following list of skills/competencies for new lawyers. Specifically, how important is it for a lawyer to have achieved core competency in each skill in his/her first 2-3 years of practice?

	Critically Important		Largely Irrelevant	No View
Accounting / Financial Statement Analysis	<input type="radio"/>	Accounting / Financial Statement Analysis	<input type="radio"/>	<input type="radio"/>
Business Strategy	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Collaboration	<input type="radio"/>	Collaboration	<input type="radio"/>	<input type="radio"/>
Computer Programming / Architecture (e.g., Predictive Coding)	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Conflict Resolution	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Client Counseling	<input type="radio"/>	Client Counseling	<input type="radio"/>	<input type="radio"/>
Cultural Competency	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Document Drafting	<input type="radio"/>	Document Drafting	<input type="radio"/>	<input type="radio"/>
Fact Development and Analysis	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Financial / Valuation Techniques (e.g., PDV, IRR, CAPM)	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Interviewing (e.g., clients, employees, witnesses)	<input type="radio"/>	Interviewing (e.g., clients, employees, witnesses)	<input type="radio"/>	<input type="radio"/>
Negotiation	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Oral Advocacy	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Organizational Behavior	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Management of Legal Work	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Professional Ethics	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Self Evaluation	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Spreadsheet Skills (e.g., Excel)	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Statistics / Probability	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Trial Practice	<input type="radio"/>		<input type="radio"/>	<input type="radio"/>
Other (If you like, feel free to specify up to 3 additional skills fields that you would characterize as "Critically Important"; each on a separate line. Please DO NOT include doctrinal / practice areas, such				



Q13: In light of your area of expertise, please evaluate the following list of skills/competencies for new lawyers. Specifically, how important is it for a lawyer to have achieved core competency in each skill in his/her first 2-3 years

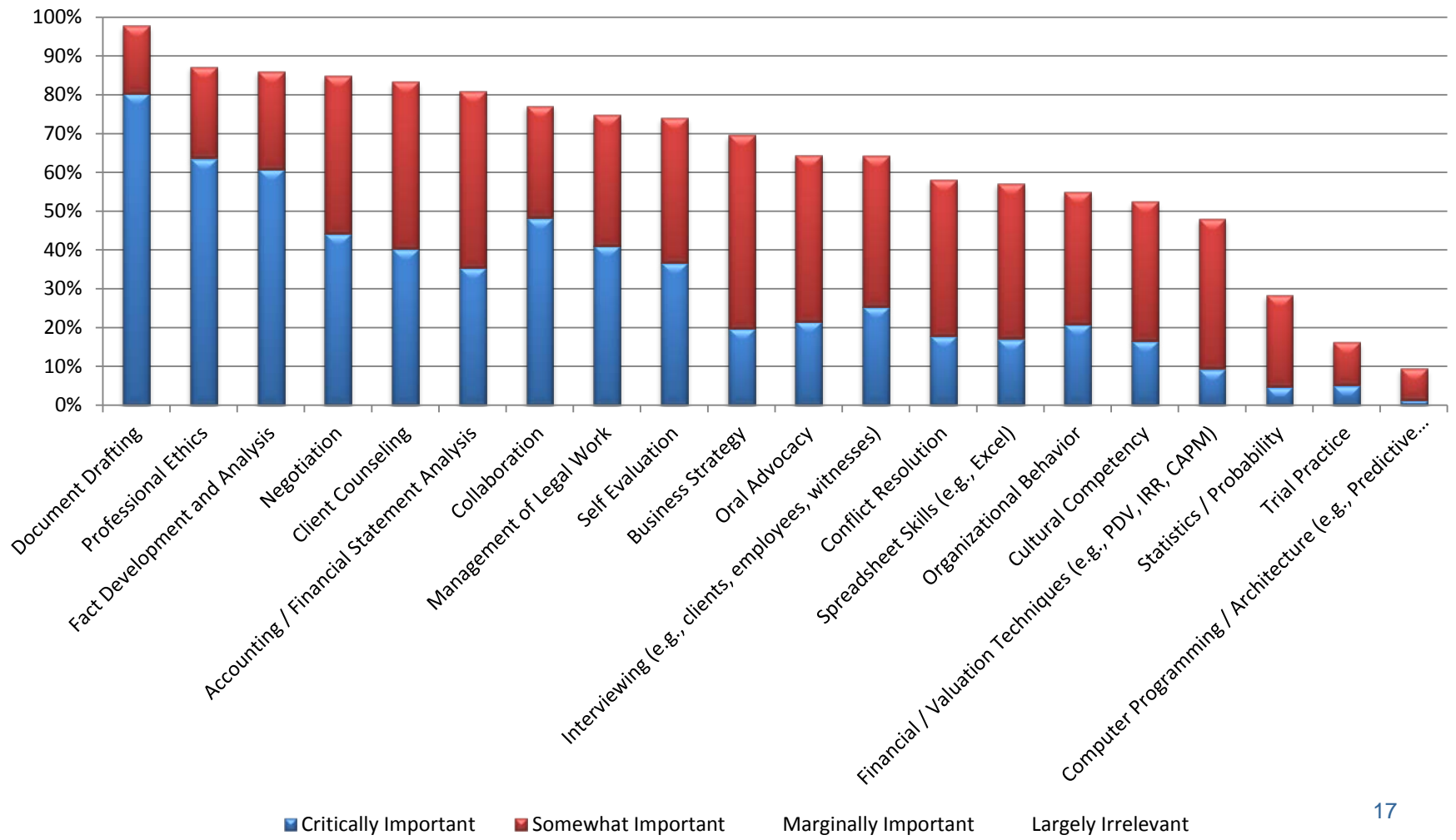
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IBE





Q13: In light of your area of expertise, please evaluate the following list of skills/competencies for new lawyers. Specifically, how important is it for a lawyer to have achieved core competency in each skill in his/her first 2-3 years

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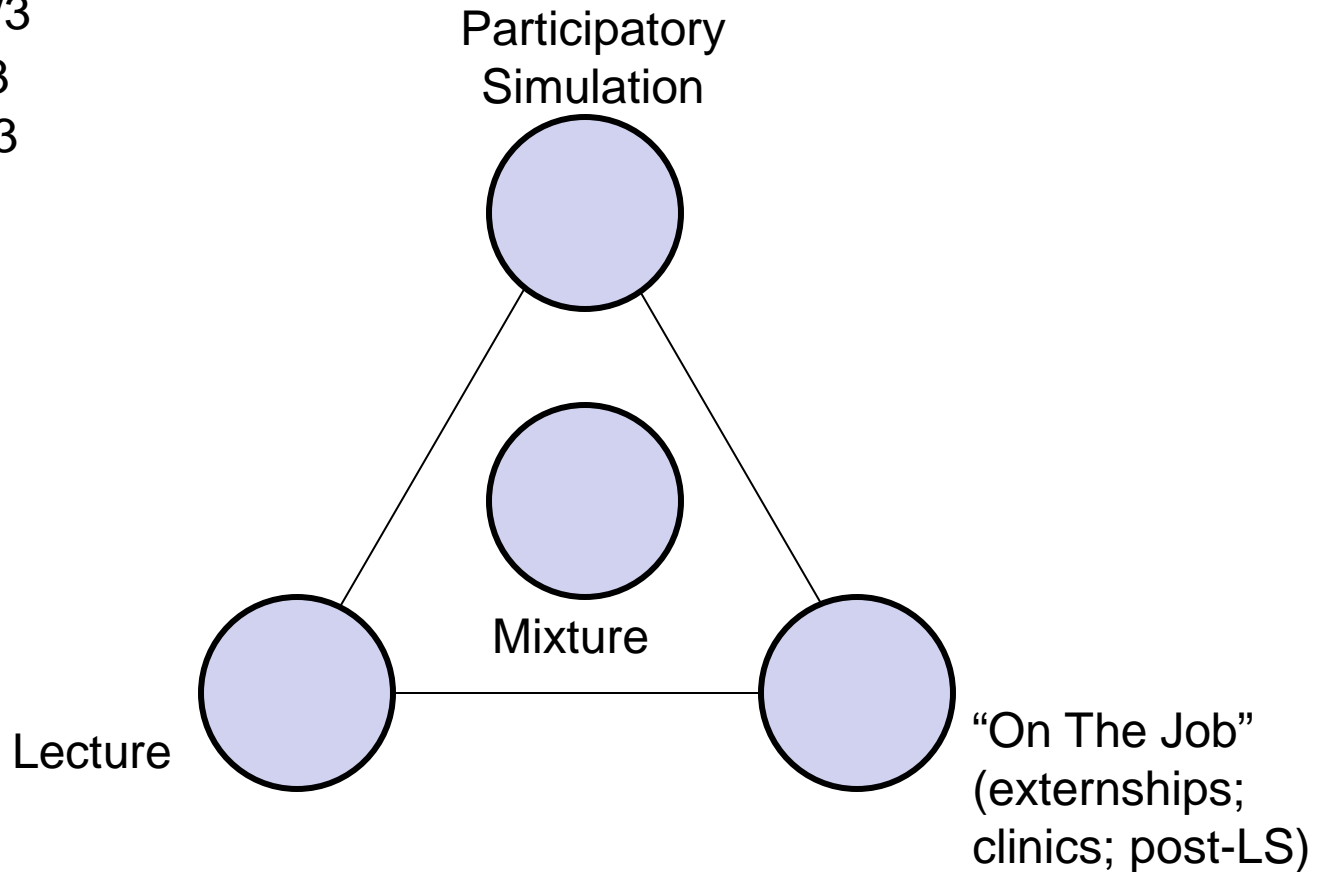


Q14: Mode of delivery

For the same list of skills/competencies evaluated above, please characterize the setting in which you think each is most effectively taught.

Hypothetical Example:

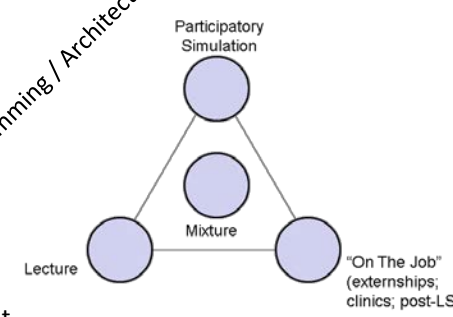
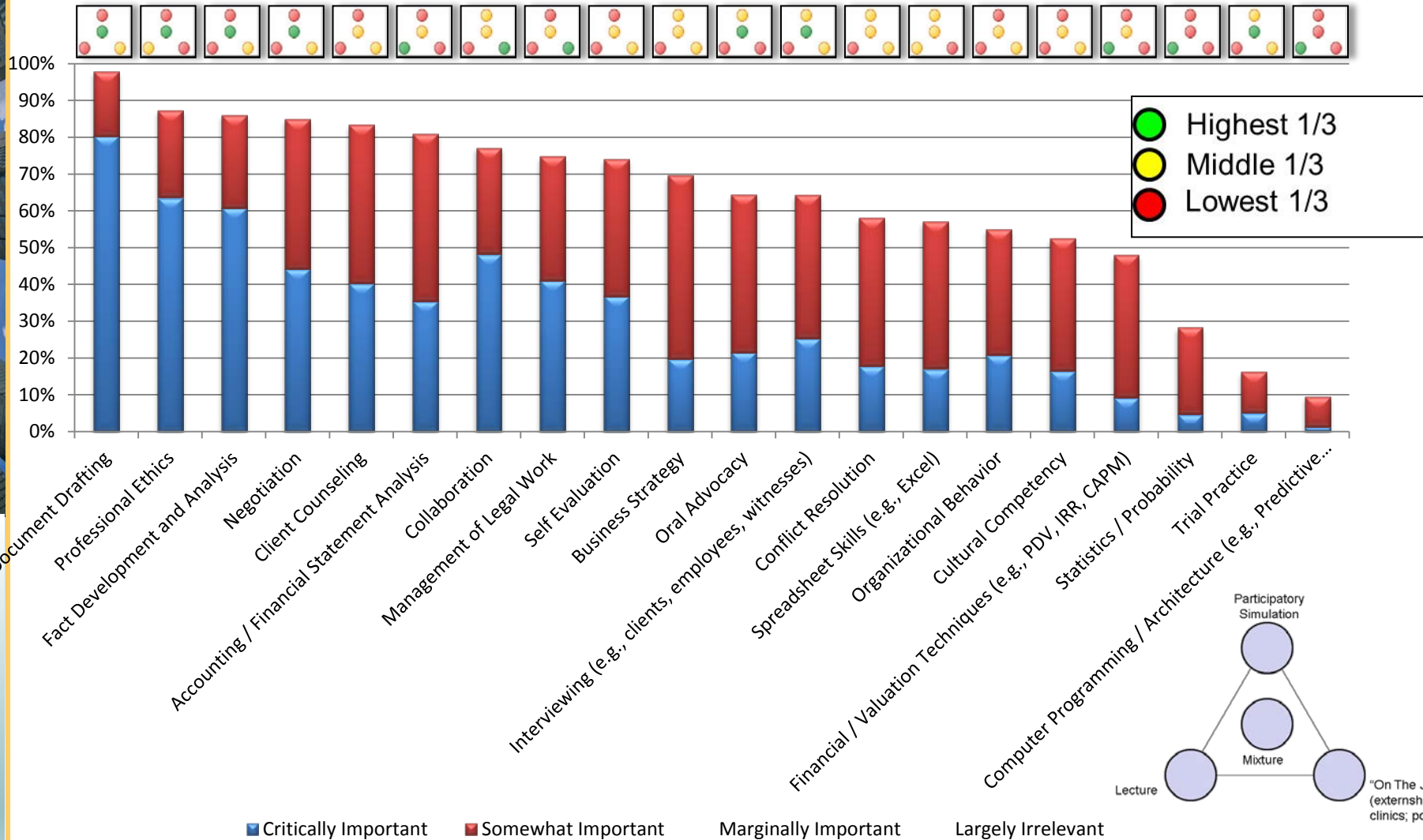
- Highest 1/3
- Middle 1/3
- Lowest 1/3





Highly-Ranked competencies (Q13) versus preferred modality of delivery (Q14)

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See appendix A1 for specific numerical summaries of each category 19



Take Aways (Set #1)

- Many of the topics already identified by TF as “competencies” under current proposal have the support of transactional attorneys
 - E.g., Document drafting; negotiation; client counseling, many others
- Respondents suggest (somewhat strongly) that there is no “one size fits all” modality for delivery
 - Lecture; Simulation; Live-Client Experiences; Mixture
 - Best mode does not appear uniform across topic (nor, one might surmise, across schools)
 - This is consistent (in certain ways) with the Taskforce’s suggestion that many courses may deserve “fractional” credit towards proposed competencies requirement



Take-Aways (#2)

- **But** an important group of business skills not explicitly identified by task force also wins support
 - E.g., Accounting, Valuation, Strategy, Spreadsheet Skills
 - Note: Results of recent Harvard Law School study consistent
 - **This makes sense**: it is precisely these areas where transactional business law has been evolving...and where firms are moving aggressively to augment new lawyers' skill sets (often at substantial cost)
- Two implications:
 1. Implies that link between (a) “competencies” and (b) “experiential” delivery may not be as strong as presumed;
 2. Implies that the list of example courses could be tuned up to reflect this emerging reality in transactional practice...



A modest proposal for slight alternation of language of task force report

For those who elect to satisfy this requirement during law school, 15 units of coursework would be required from among the following subject areas:

- Oral presentation and advocacy
- Advanced legal research and writing (excluding first year legal research and writing)
- Negotiation and alternative dispute resolution (i.e. mediation, arbitration)
- Client counseling, effective client communication, and problem solving for clients in practice settings
- Witness interviewing and other investigation and fact-gathering techniques
- Law practice management and the use of technology in law practice
- ~~Project management, budgeting and financial reporting~~
- Financial Analysis (e.g., accounting, budgeting, project management, and valuation)
- Business Strategy and Behavior
- Practical writing (e.g. drafting of contracts and other legal instruments, drafting of pleadings)
- Preparation of cases for trial during the pre-trial phase, ~~including~~ (E.g., e-discovery, assessing evidence, utilizing experts)
- Trial practice
- Basics of the justice system, including how courts in California are organized and administered, and what responsibilities lawyers have as officers of the court
- Professional civility and applied ethics (i.e. ethics in practice settings)

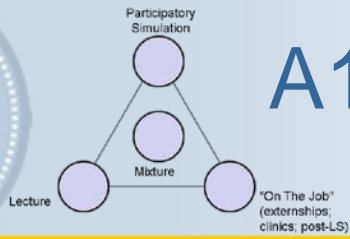


Questions / Comments

- All raw data (as well as this presentation and a subsequent written report) will be made available on the website of the Berkeley Center for Law, Business and the Economy (BCLBE) at:

<http://www.law.berkeley.edu/bclbe.htm>

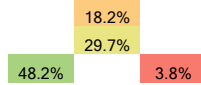




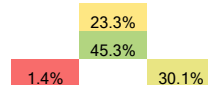
A1: "Best Delivery Modality" Response Numerical Responses by cell

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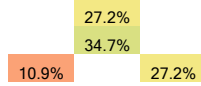
Accounting / Financial Statement Analysis



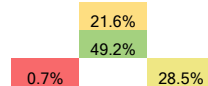
Interviewing (e.g., clients, employees, witnesses)



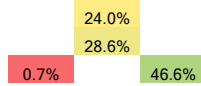
Business Strategy



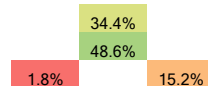
Negotiation



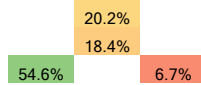
Collaboration



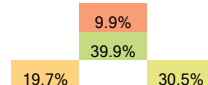
Oral Advocacy



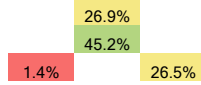
Computer Programming / Architecture (e.g., Pred. Coding)



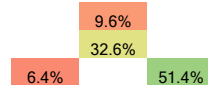
Organizational Behavior



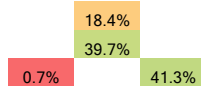
Conflict Resolution



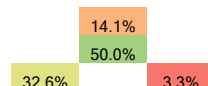
Management of Legal Work



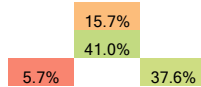
Client Counseling



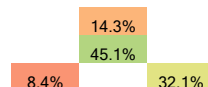
Professional Ethics



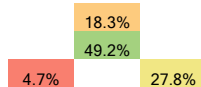
Cultural Competency



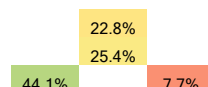
Self Evaluation



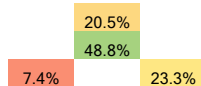
Document Drafting



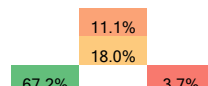
Spreadsheet Skills (e.g., Excel)



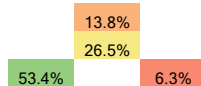
Fact Development and Analysis



Statistics / Probability



Financial / Valuation Techniques (e.g., PDV, IRR, CAPM)



Trial Practice

