



The State Bar *of California*

California Attorney Practice Analysis (CAPA) Working Group

November 25, 2019



Construct Statement

Definition and Requirements

Standards for Educational and Psychological Testing (2014)

- **“the concept or characteristic that a test is designed to measure” (p11)**
- **Standard 11.1: Prior to development and implementation of an employment or credentialing test, a clear statement of the intended interpretations of test scores for specified use should be made. The subsequent validation effort should be designed to determine how well this has been achieved for all relevant subgroups.**



Construct Statement

United States Medical Licensing Exam

The USMLE assesses a physician's ability to apply knowledge, concepts, and principles, and to demonstrate fundamental patient-centered skills, that are important in health and disease and that constitute the basis of safe and effective patient care.

- **ability to apply**
- **knowledge, concepts, and principles**
- **patient-centered skills**
- **important to health and disease**
- **basis of safe and effective patient care**



Construct Statement

National Council Licensure Examination

The *NCLEX-RN* and *NCLEX-PN* are designed to measure one *construct*, nursing ability.

- ability



Construct Statement

Uniform Certified Public Accountant (CPA) Exam

The CPA Examination is designed to assess the knowledge and skills entry-level CPAs need to practice public accountancy.

- **knowledge and skills**
- **entry-level CPAs**
- **need to practice public accountancy**



Construct Statement

Architect Registration Exam

The Architect Registration Examination is designed to assess aspects of architectural practice that affect the integrity, soundness, and health impact of a building. The exam also assesses an architect's responsibilities within firms, such as managing projects and coordinating the work of other professionals.

- **aspects of practice that affect**
- **integrity, soundness, and health impact of a building**
- **responsibilities within firms**
- **managing projects**
- **coordinating the work of other professionals**



Construct Statement

Professional Engineering Exam

The Professional Engineering Examination is designed to test for a minimum level of competency in a particular engineering discipline. It is designed for engineers who have gained a minimum of four years of work experience in their chosen engineering discipline.

- **Minimum level of competency**
- **Particular engineering discipline**
- **Four years experience in chosen engineering discipline**



Current Purpose Statement

NCBE and ABA

Purpose of Examination. The bar examination should test the ability of an applicant to identify legal issues in a statement of facts, such as may be encountered in the practice of law, to engage in a reasoned analysis of the issues, and to arrive at a logical solution by the application of fundamental legal principles, in a manner which demonstrates a thorough understanding of these principles. The examination should not be designed primarily to test for information, memory, or experience. Its purpose is to protect the public, not to limit the number of lawyers admitted to practice.



Current Purpose Statement

California Bar Examination

Your answer should demonstrate your ability to analyze the facts in the question, to tell the difference between material facts and immaterial facts, and to discern the points of law and fact upon which the case turns. Your answer should show that you know and understand the pertinent principles and theories of law, their qualifications and limitations, and their relationships to each other. Your answer should evidence your ability to apply the law to the given facts and to reason in a logical, lawyer-like manner from the premises you adopt to a sound conclusion. Do not merely show that you remember legal principles. Instead, try to demonstrate your proficiency in using and applying them.



Proposed Construct Statement **California Bar Examination**

The California Bar Examination assesses proficiency in core legal topics and competency areas that are required for the entry-level practice of law and effective, ethical representation of clients.

- **proficiency**
- **validated legal topics and competency areas**
- **required for entry-level practice of law**
- **effective service to clients**

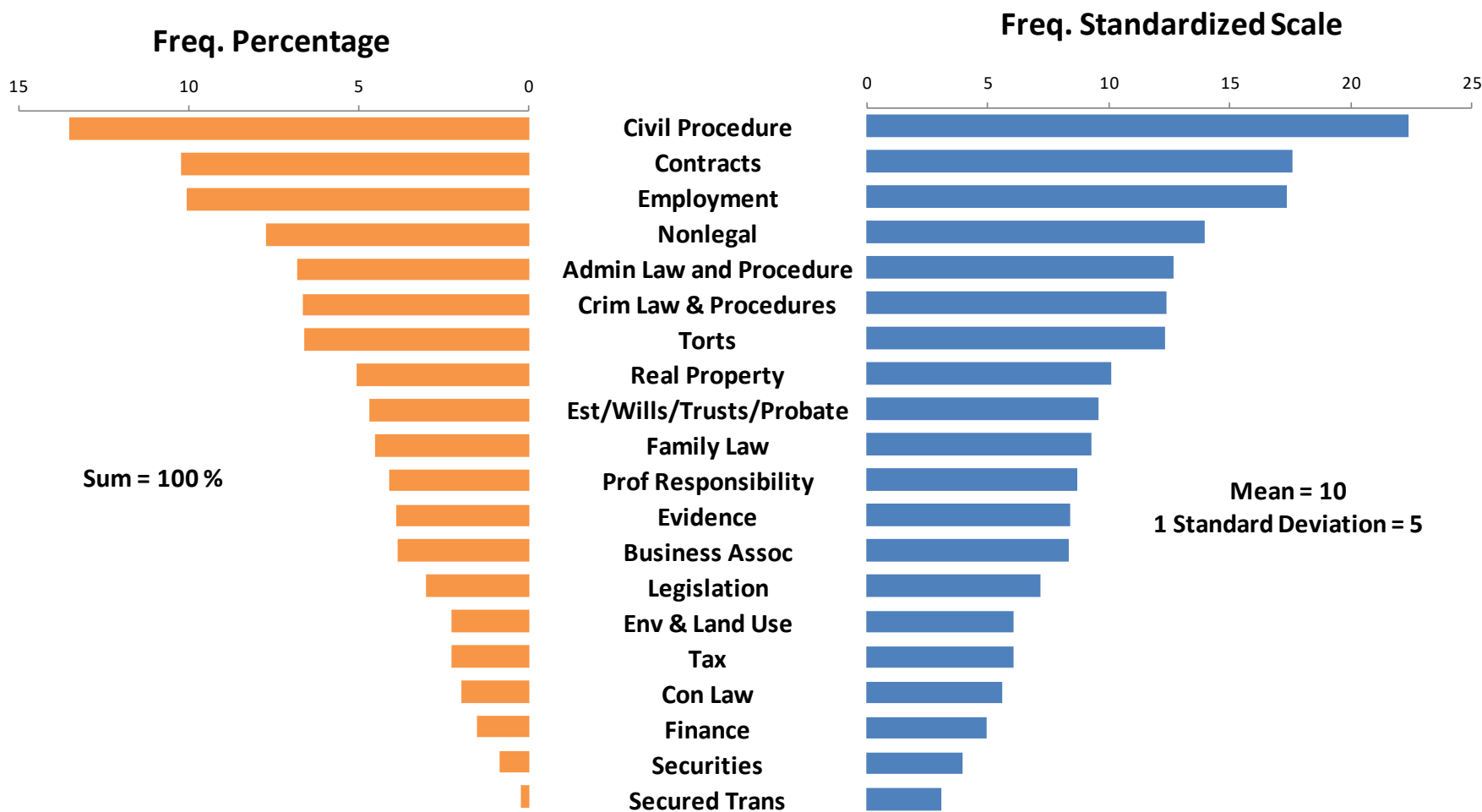


Standardized and Composite Scales

- All ratings transformed to standardized scales
 - Mean values set at 10, with 1 standard deviation equal to 5
 - The range from 5 to 15 covers ~68 percent of distribution
 - The range from 1 to 20 covers ~95 percent of distribution
- Allows composite scores combining different ratings, and
- Compare results from the two surveys

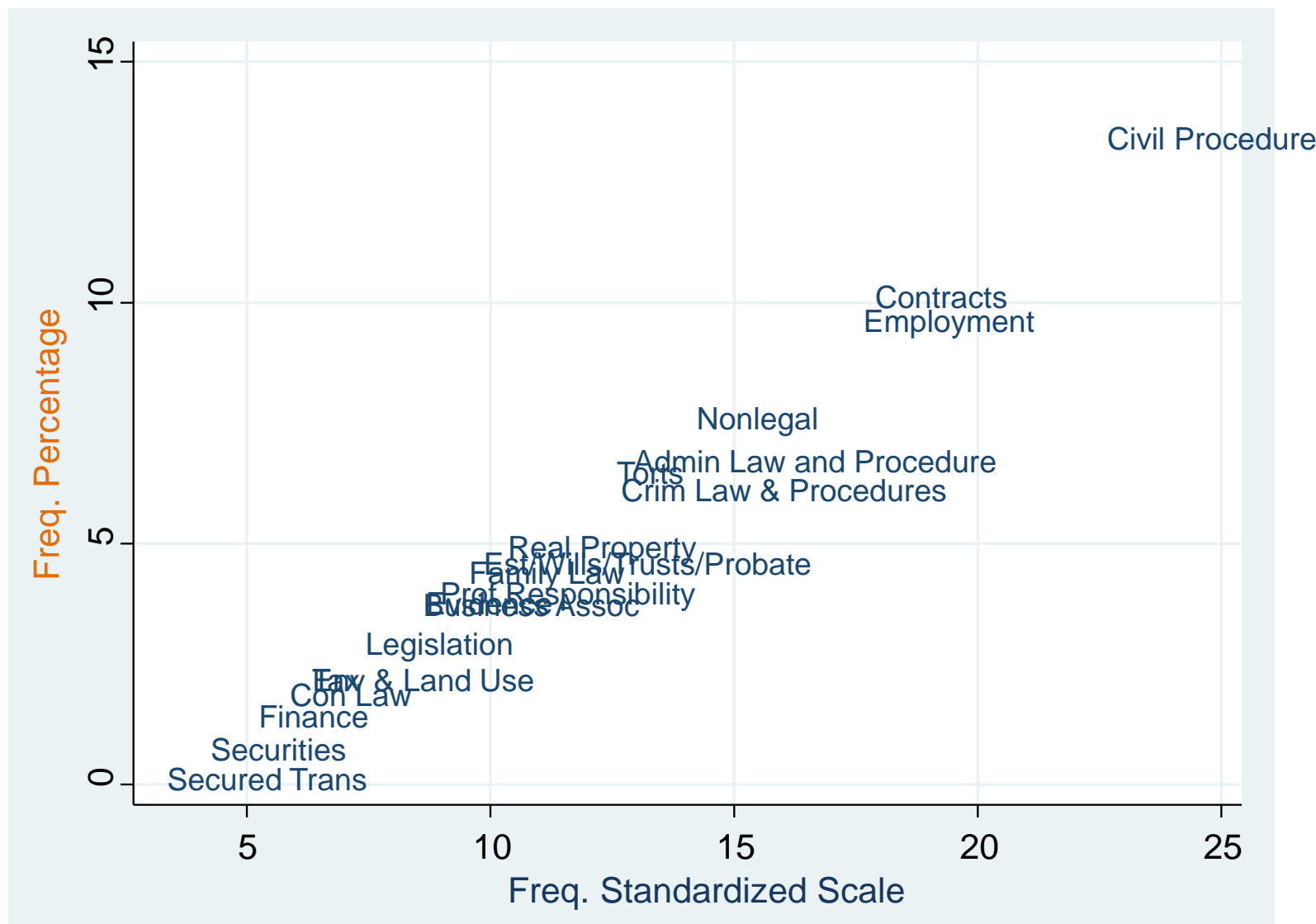


Transformation of Ratings to Standardized Scales



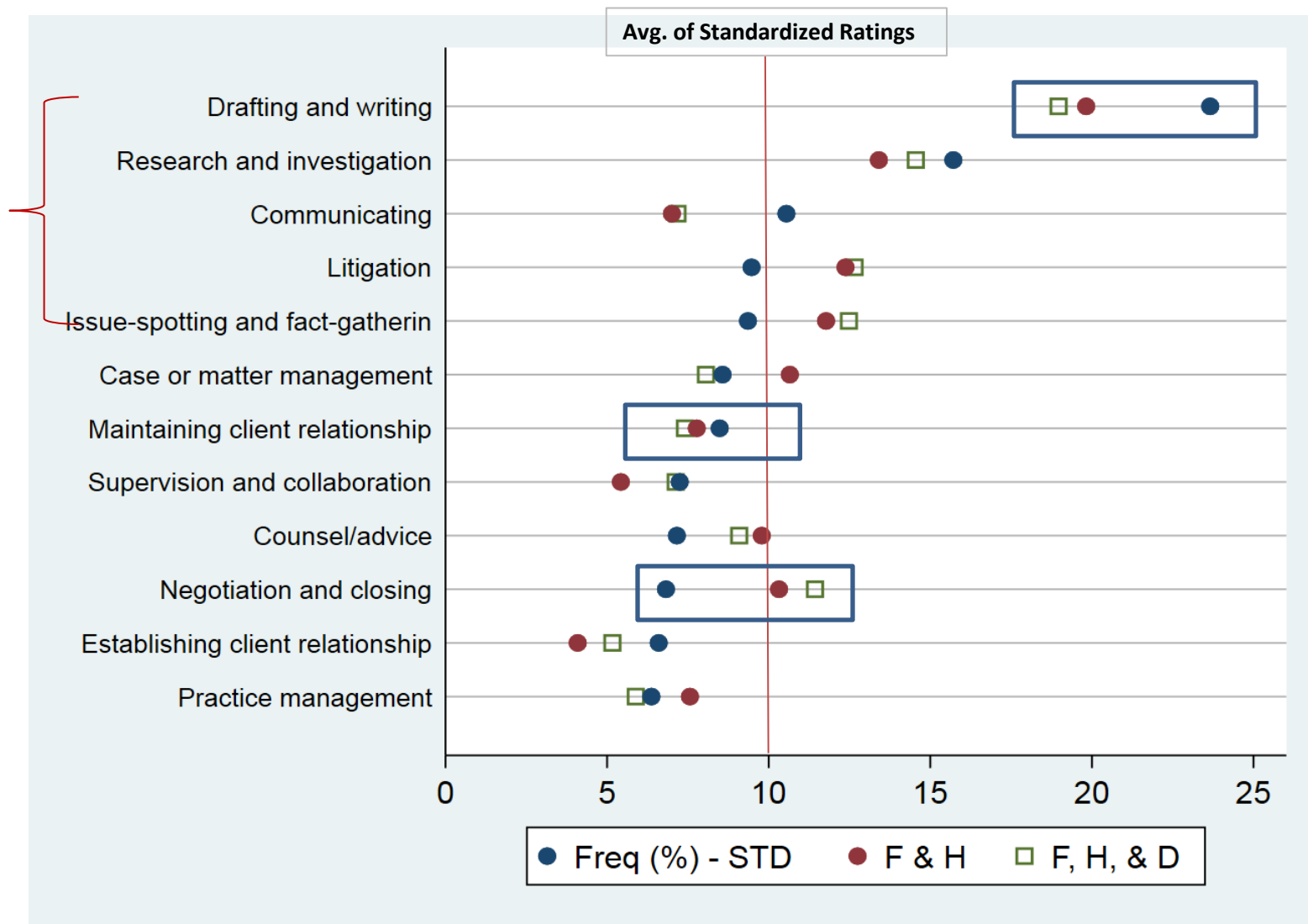


Standardized Scales – A Different View



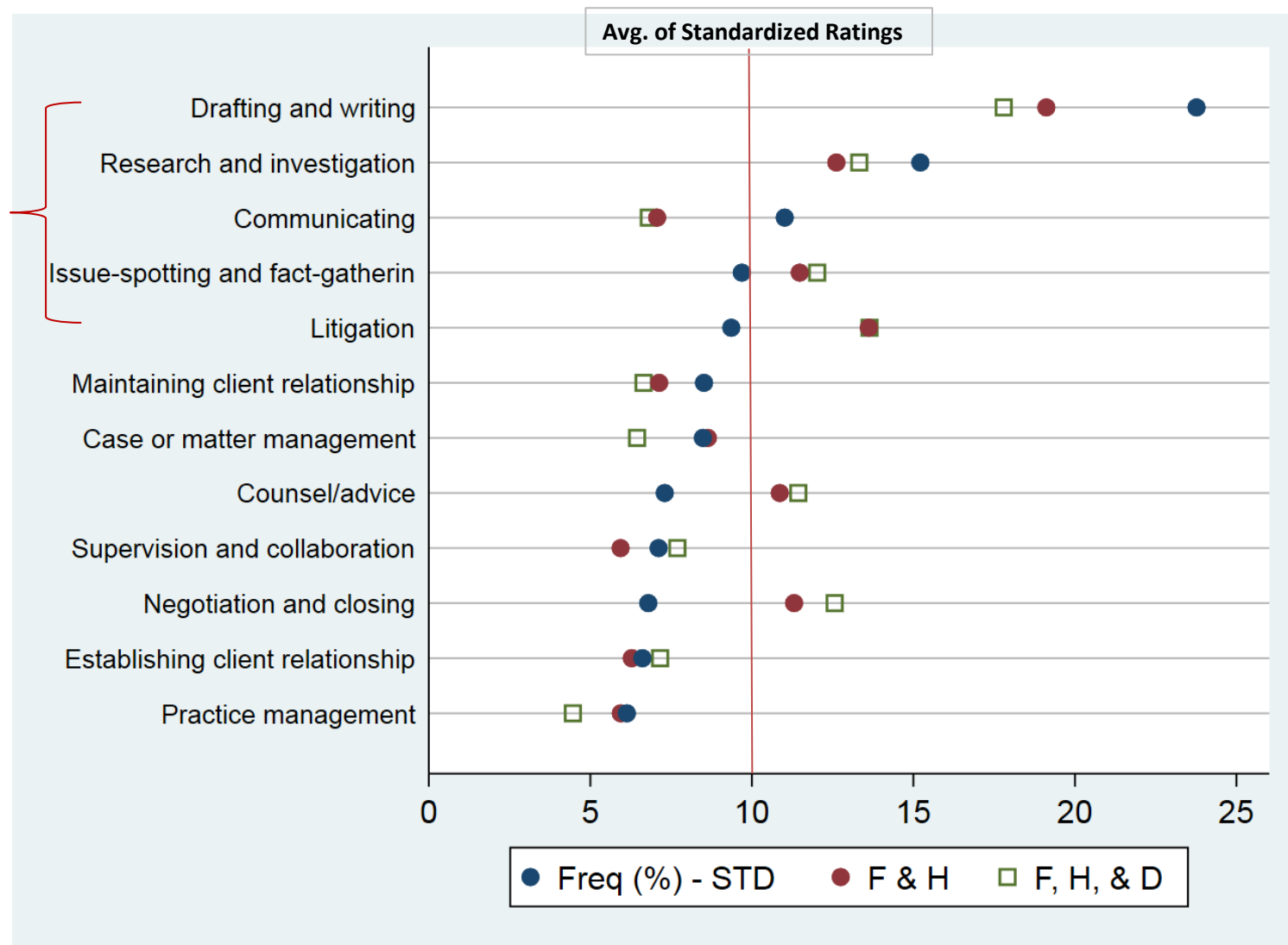


Composite Scores on Competencies – First Year



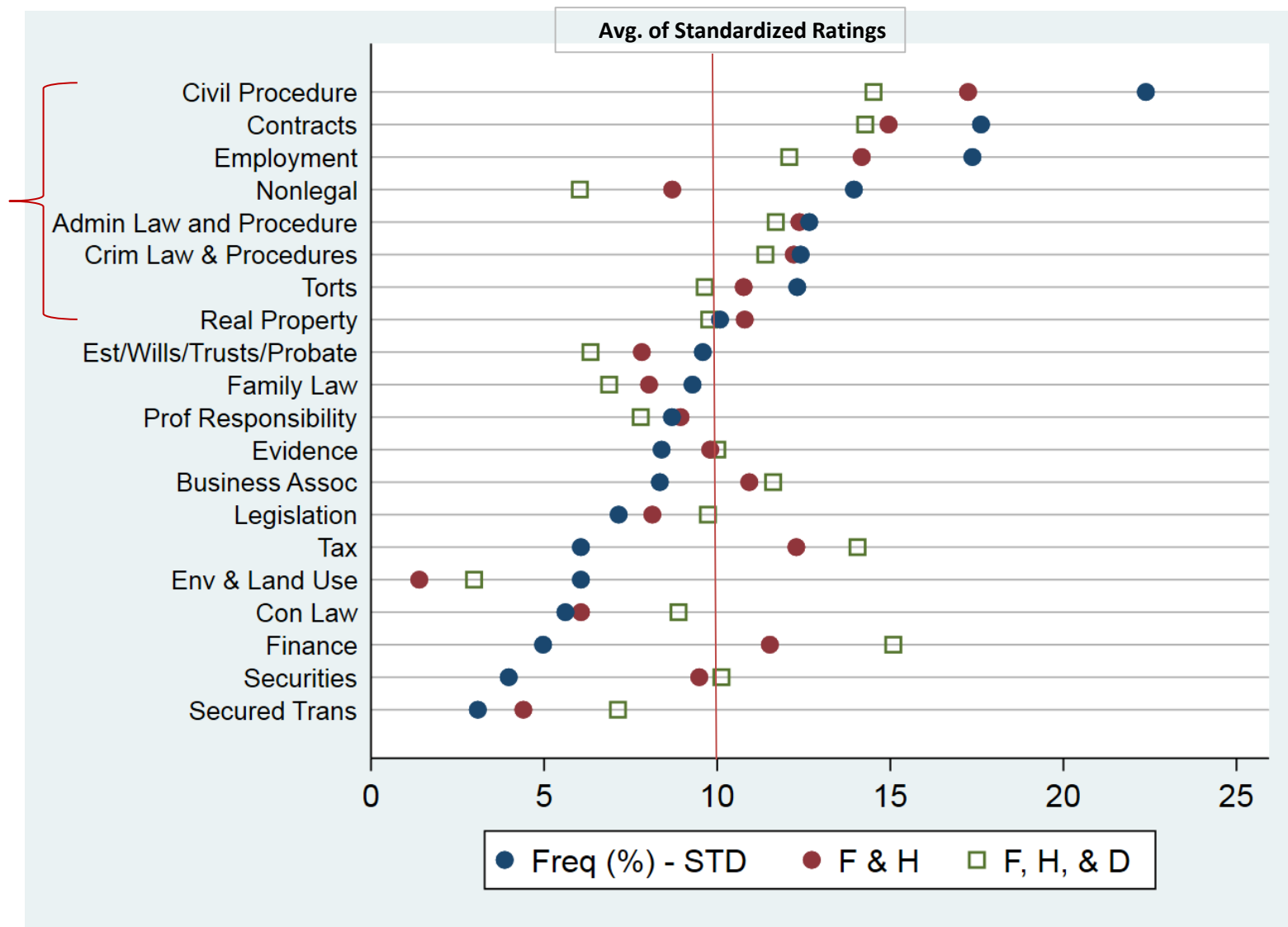


Similar Patterns for First Three Years



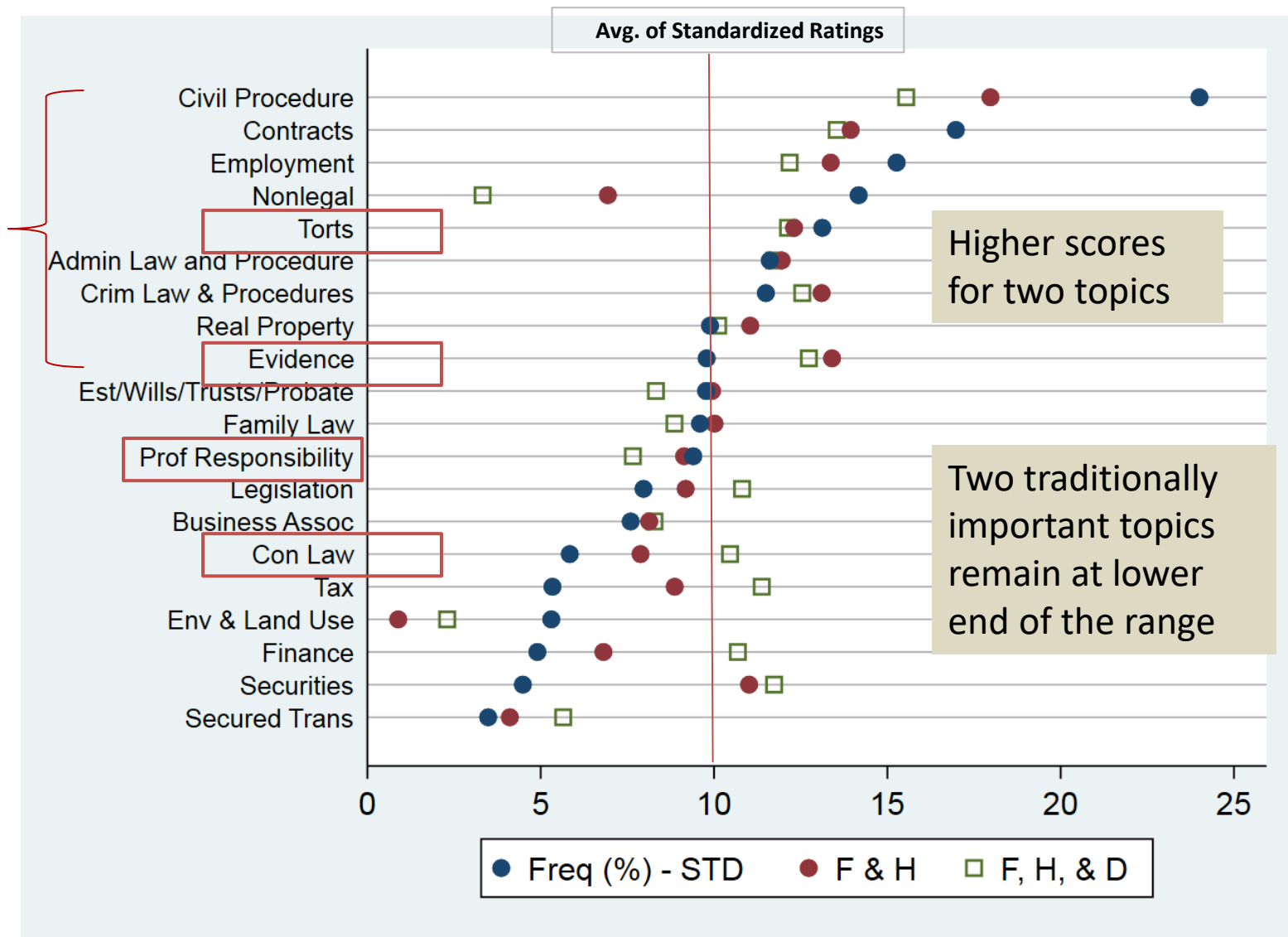


Composite Scores for Legal Topics - First Year





Composite Scores for Legal Topics - First Three Years





FIRST YEAR ATTORNEYS Actual (Unstandardized) Findings

Competency	ESM # of Responses	Trad # of Responses	ESM Avg. Harm	Trad Avg. Harm	Avg. Depth of Knowld ge	Freq (%)	Trad Avg. Freq Rating
Est client relationship	68	264	2.7	3.6	2.8	2.6	3.2
Maintain client relnshp	152	292	2.9	3.8	2.8	5.8	4.0
Communicating	244	305	2.8	3.8	2.9	9.3	4.0
Practice management	58	250	3.0	3.5	2.5	2.2	3.4
Case, matter mgmt	156	255	3.2	3.7	2.5	5.9	3.8
Superv & and collab	97	263	2.8	3.3	3.1	3.7	3.6
Issue-spot & fact-gather	191	271	3.2	4.0	3.3	7.2	4.2
Research, investigation	474	276	3.1	3.8	3.6	18.0	4.1
Drafting and writing	828	276	3.3	4.0	3.6	31.4	4.2
Counsel/advice	93	228	3.2	3.9	2.9	3.5	3.9
Negotiation and closing	78	186	3.2	3.8	3.3	3.0	3.3
Litigation	196	171	3.3	4.1	3.3	7.4	3.4



FIRST YEAR ATTORNEYS Standardized Findings

Competency	ESM # of Responses	Trad # of Responses	ESM Avg. Harm	Trad Avg. Harm	Avg. Depth of Knowld ge	Freq (%)	Trad Avg. Freq Rating
Est client relationship	68	264	1.6	6.4	1.6	6.6	4.7
Maintain client relnshp	152	292	7.1	11.5	7.1	8.5	13.3
Communicating	244	305	3.5	11.6	3.5	10.5	13.2
Practice management	58	250	8.8	4.1	8.8	6.4	6.2
Case, matter mgmt	156	255	12.7	8.4	12.7	8.6	11.6
Superv & and collab	97	263	3.6	-0.6	3.6	7.2	9.0
Issue-spot & fact-gather	191	271	14.2	15.9	14.2	9.4	16.3
Research, investigation	474	276	11.1	11.4	11.1	15.7	14.5
Drafting and writing	828	276	16.0	14.7	16.0	23.7	16.1
Counsel/advice	93	228	12.4	13.3	12.4	7.2	12.7
Negotiation and closing	78	186	13.8	10.9	13.8	6.8	6.0
Litigation	196	171	15.3	16.7	15.3	9.5	6.1



FIRST YEAR ATTORNEYS Standardized Averages

Competency	ESM # of Responses	Trad # of Responses	ESM Avg. H & F	Trad Avg. H & F	ESM Avg. H,F,&Dep	Avg. Trad H&F
Est client relationship	68	264	4.1	5.5	5.2	4.8
Maintain client relnshp	152	292	7.8	12.4	7.4	10.1
Communicating	244	305	7.0	12.4	7.2	9.7
Practice management	58	250	7.6	5.1	5.9	6.4
Case, matter mgmt	156	255	10.7	10.0	8.1	10.3
Superv & and collab	97	263	5.4	4.2	7.1	4.8
Issue-spot & fact-gather	191	271	11.8	16.1	12.5	13.9
Research, investigation	474	276	13.4	12.9	14.6	13.2
Drafting and writing	828	276	19.8	15.4	19.0	17.6
Counsel/advice	93	228	9.8	13.0	9.1	11.4
Negotiation and closing	78	186	10.3	8.4	11.4	9.4
Litigation	196	171	12.4	11.4	12.7	11.9



FIRST YEAR ATTORNEYS Competencies RANKED by Average

Competency	ESM # of Responses	Trad # of Responses	ESM Avg. of H & F	Trad Avg. of H & F	ESM Avg. Harm, Freq, & Depth	Avg. ESM Trad H&F
Drafting and writing	828	276	19.8	15.4	19.0	17.6
Issue-spot & fact-gather	191	271	11.8	16.1	12.5	13.9
Research, investigation	474	276	13.4	12.9	14.6	13.2
Litigation	196	171	12.4	11.4	12.7	11.9
Counsel/advice	93	228	9.8	13.0	9.1	11.4
Case, matter mgmt	156	255	10.7	10.0	8.1	10.3
Maintain client rel	152	292	7.8	12.4	7.4	10.1
Communicating	244	305	7.0	12.4	7.2	9.7
Negotiation and closing	78	186	10.3	8.4	11.4	9.4
Practice management	58	250	7.6	5.1	5.9	6.4
Superv & and collab	97	263	5.4	4.2	7.1	4.8
Est client relationship	68	264	4.1	5.5	5.2	4.8



1, 2, 3 YEAR ATTORNEYS Competencies RANKED by Average

Competency	ESM # of Responses	Trad # of Responses	ESM Avg. Harm	Trad Avg. Harm	Avg. Depth of Knowledge	Avg. ESM Trad H&F
Drafting and writing	2,225	592	19.1	15.8	17.8	16.8
Issue-spot & fact-gather	592	589	11.5	15.7	12.0	13.9
Research & investigation	1,233	595	12.6	13.6	13.3	13.4
Counsel/advice	315	516	10.9	13.3	11.4	12.4
Litigation	554	376	13.6	11.0	13.6	12.3
Negotiation and closing	256	417	11.3	8.2	12.6	10.4
Maintain client rel	456	655	7.1	12.4	6.6	9.5
Communicating	746	670	7.1	12.2	6.8	9.5
Case, matter mgmt	452	557	8.6	9.6	6.4	8.0
Est client relationship	235	605	6.3	6.0	7.2	6.6
Superv & and collab	293	581	5.9	5.0	7.7	6.3
Practice management	179	550	5.9	4.5	4.5	4.5



FIRST YEAR ATTORNEYS Legal Topics RANKED by Average

Legal Topic	ESM # of Responses	Trad # of Responses	ESM Avg. of H & F	Trad Avg. of H & F	ESM Avg. H,F,&D	Avg ESM Trad H & F
Civil Proc	396	133	17.2	16.9	14.5	17.1
Contracts	300	140	14.9	15.7	14.3	15.3
Prof Resp	120	110	8.9	17.6	7.8	13.3
Employment	295	94	14.2	11.3	12.1	12.7
Evidence	114	93	9.8	15.2	10.0	12.5
Adm Law, Proc	200	88	12.4	10.6	11.7	11.5
Crim Law, Proc	195	56	12.2	10.7	11.4	11.5
Torts	193	69	10.8	12.0	9.6	11.4
Bus Assoc	113	96	10.9	10.4	11.6	10.7
Tax	67	41	12.3	7.6	14.1	9.9
Real Propty	148	68	10.8	8.6	9.8	9.7
Const Law	58	76	6.1	12.1	8.9	9.1
Finance	45	23	11.5	6.3	15.1	8.9
Family Law	132	31	8.0	9.2	6.9	8.6
Securities	25	19	9.5	7.3	10.1	8.4
Estate, Trust, Probate	138	37	7.8	7.6	6.3	7.7
Leg, Govt	89	63	8.1	6.6	9.7	7.4
Secured Tx	7	16	4.4	1.5	7.1	2.9
Env, Land Use	67	18	1.4	2.8	3.0	2.1

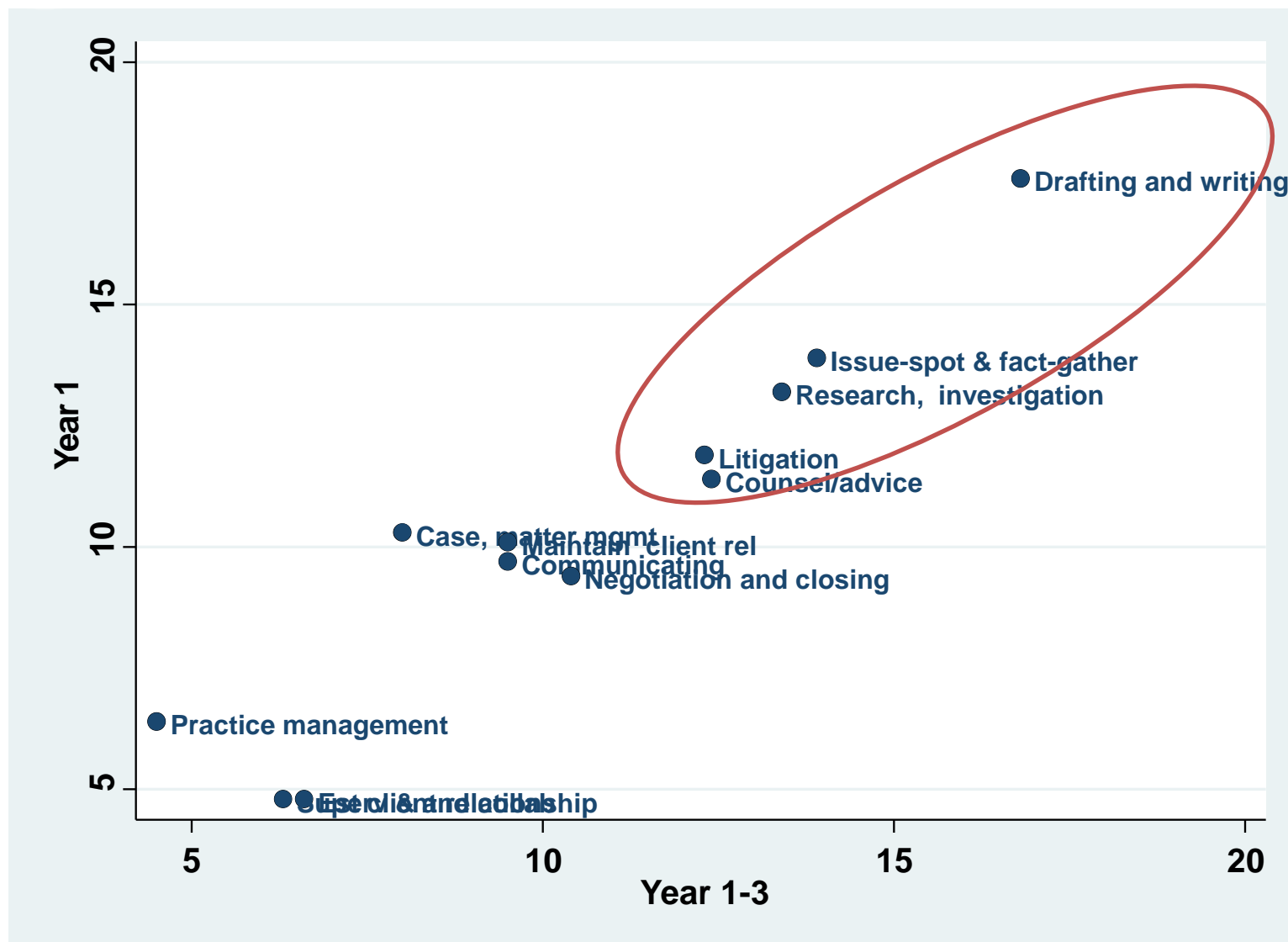


1, 2, 3 YEAR ATTORNEYS Legal Topics RANKED by Average

Legal Topic	ESM # of Responses	Trad # of Responses	ESM Avg. of H & F	Trad Avg. of H & F	ESM Avg. H,F,&D	Avg ESM Trad H & F
Civil Proc	1302	280	18.0	17.8	15.5	17.9
Evidence	420	209	13.4	15.8	12.7	14.6
Contracts	866	276	13.9	15.1	13.5	14.5
Prof Resp	396	249	9.1	18.2	7.7	13.6
Torts	627	141	12.3	12.6	12.1	12.4
Employment	760	178	13.4	11.5	12.2	12.4
Crim Law, Proc	526	123	13.1	11.4	12.5	12.3
Adm Law, Proc	533	200	12.0	11.1	11.7	11.5
Const Law	175	170	7.9	12.4	10.5	10.2
Family Law	408	74	10.0	9.5	8.9	9.7
Real Propty	426	134	11.0	7.2	10.1	9.1
Bus Assoc	284	174	8.1	8.6	8.3	8.4
Leg, Govt	307	138	9.2	6.9	10.8	8.0
Estate, Trust, Probate	419	76	9.9	5.8	8.3	7.9
Securities	91	35	11.0	4.2	11.7	7.6
Tax	144	68	8.9	6.1	11.4	7.5
Finance	117	50	6.8	5.9	10.7	6.4
Env, Land Use	142	57	0.9	6.7	2.3	3.8
Secured Tx	29	31	4.1	3.2	5.6	3.6

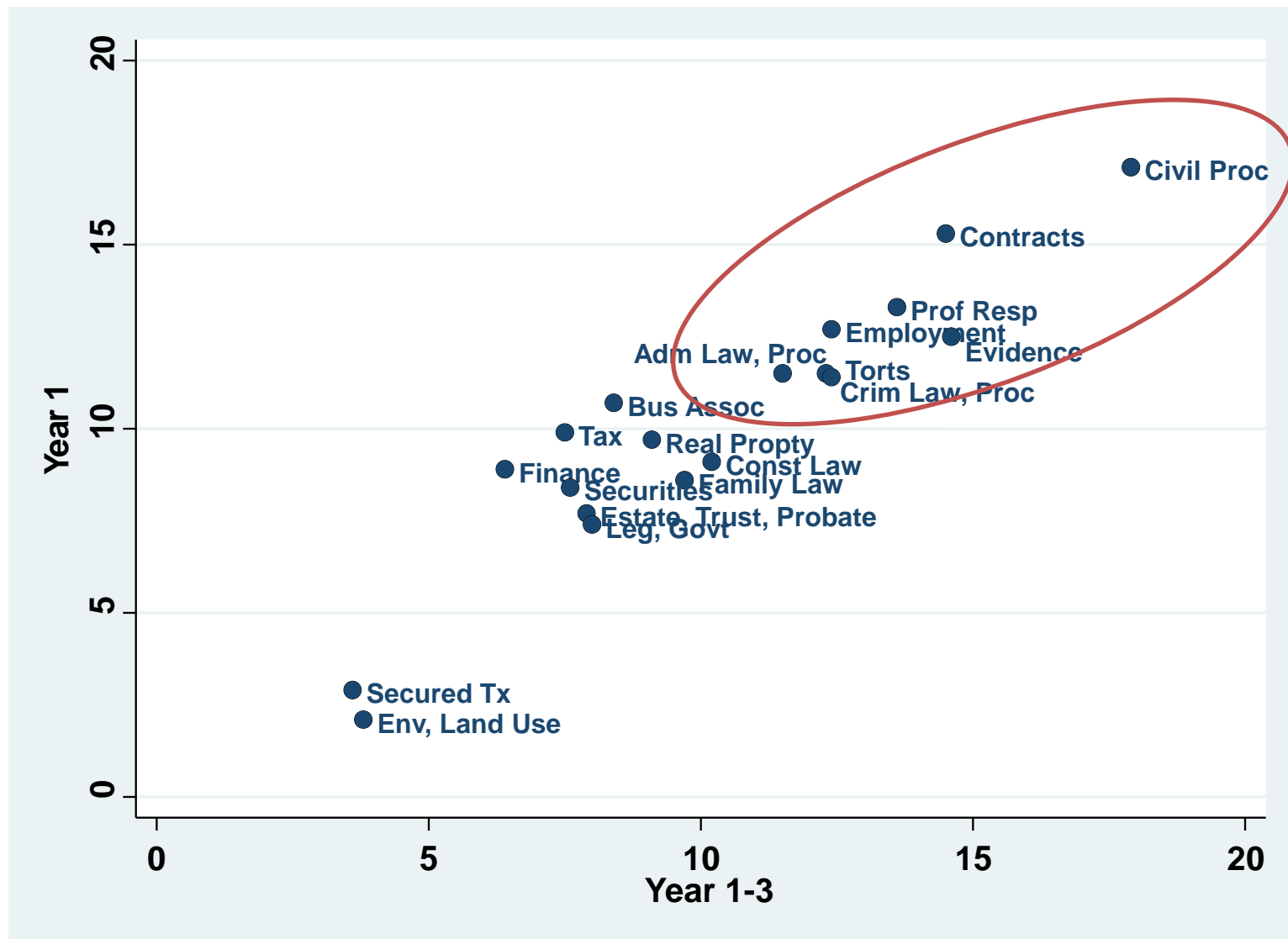


Combined Composite Scores for Competencies





Combined Composite Scores for Legal Topics





Modified Composite Ratings for Legal Topics

Legal Topic	Avg. ESM Traditional Composite Ratings	ESM Frequency & Traditional Harm Ratings
Civil Proc	17.9	20.4
Prof Resp	13.6	14.5
Contracts	14.5	14.4
Torts	12.4	14.1
Evidence	14.6	13.6
Employment	12.4	13.0
Crim Law, Proc	12.3	12.7
Family Law	9.7	11.4
<i>Adm Law, Proc</i>	<i>11.5</i>	<i>10.1</i>
Const Law & privacy	10.2	9.4
Estate, Trust, Probate	7.9	7.8
Real Propty	9.1	7.4
Env, Land Use	3.8	7.0
Bus Assoc	8.4	6.4
Finance	6.4	6.2
Tax	7.5	6.0
Leg, Govt	8.0	6.0
Securities	7.6	4.8
Secured Transaction	3.6	3.4



Modified Composite Ratings for Competencies

Competency	Avg. ESM Traditional Composite Ratings	ESM Frequency & Traditional Harm Ratings
Drafting and writing	16.8	19.7
Research, investigation	13.4	14.0
Litigation	12.3	13.1
Issue-spot & fact-gather	13.9	12.8
Communicating	9.5	11.1
Counsel/advice	12.4	10.3
Maintain client relnshp	9.5	9.8
Negotiation and closing	10.4	8.4
Case, matter mgmt	8	8.1
Est client relationship	6.6	6.7
Practice management	4.5	4.6
Superv & and collab	6.3	4.0