



Section of Legal Education  
and Admissions to the Bar

# 2017 Employment Questionnaire (For 2016 Graduates)

## DEFINITIONS & INSTRUCTIONS

## 2017 ABA EMPLOYMENT QUESTIONNAIRE DEFINITIONS AND INSTRUCTIONS

Employment information is reported to the American Bar Association for accreditation and regulatory purposes. Accordingly, **the ABA Employment Questionnaire must be completed strictly in accordance with these definitions and instructions. Do not rely on instructions, definitions or guidance that may be provided with any other graduate employment survey and that may be inconsistent with these definitions and instructions.** Relying on the guidance provided by NALP (National Association for Legal Career Professionals) with its survey or relying on Symplicity to import data to the Employment Questionnaire may or may not result in data that meet the requirements of these instructions and definitions.

### GENERAL DEFINITIONS

**Graduates included and status date.** This Employment Questionnaire covers students who graduated from law school between September 1, 2015 and August 31, 2016. It seeks the employment status of those graduates as of March 15, 2017. Do not include any changes in the employment status of a graduate that occur after that date.

**Employed or employment.** A graduate is considered to be employed if the graduate has a position in which he or she receives remuneration for work performed. A volunteer position, from which the graduate does not receive remuneration, even if the position might ultimately lead to a remunerated position, is not considered to be employment.

A graduate must be performing the duties of the position as of March 15, 2017 in order to be considered employed. A graduate who has an offer for a position, even if the graduate has accepted that offer, but who has not commenced performing the duties of that position, is not considered employed. Similarly, a graduate who has an accepted offer, for example from a law firm, but employment under that offer is deferred until after March 15, 2017, is not considered employed. (For further information on the treatment of a graduate whose employment is deferred or does not commence until after March 15, 2017, see Employment Status, Unemployed – Start Date Deferred, below.) If as a part of the deferral arrangement, the graduate is provided a stipend to perform work as of March 15, 2017, for example at a legal services office, that graduate would be considered employed, but the graduate would be considered employed in a public interest position and not with a law firm, and the position would be long-term or short-term depending on the expected length of the public interest position.

**Short-term.** A short-term position is one that has a definite term of less than one year. Thus, a clerkship that has a definite term of one year or more is not a short-term position. It also includes a position that is of an indefinite length if the employer does not reasonably expect that the position will last for one year or more.

A position that the employer expects to last for one year or more is not a short-term position even though it is conditioned on bar passage and licensure. Thus, a long-term position

that is conditioned on passing the bar exam by a certain date does not become a short-term position because of the condition.

**Long-term.** A long-term position is one that the employer expects to last one year or more. A law school/university funded position that the law school expects to last one year or more may be considered long-term for purposes of this definition only if the graduate is paid at least \$40,000 per year. The possibility that a short-term position may evolve into a long-term position does not make the position a long-term position.

**Full-time.** A full-time position is one in which the graduate works a minimum of 35 hours per week. A full-time position may be either short-term or long-term.

**Part-time.** A part-time position is one in which the graduate works less than 35 hours per week. A part-time position may be either short-term or long-term.

## **EMPLOYMENT STATUS**

When a graduate is reported as employed, the reporting of the graduate's employment status must include whether the position is full-time or part-time, and long-term or short-term. The school must use diligent efforts to ascertain these aspects of the graduate's employment status. In the absence of reasonable certainty about the full-time or part-time, or long-term or short-term, status of a position, a school may make a reasonable inference from the known facts and circumstances about the specific position in question in deciding whether to classify the position as full-time or part-time, and long-term or short-term.

**1) Employed – Bar Passage Required.** A position in this category requires the graduate to pass a bar exam and to be licensed to practice law in one or more jurisdictions. Notwithstanding the preceding sentence, any position that is a Law School/University Funded position as that term is defined below must be classified as "Employed – Law School/University Funded" rather than Employed – Bar Passage Required. The positions that have such a requirement are varied and include, for example, positions in law firms, business, or government. However, not all positions in law firms, business, or government require bar passage; for example, a paralegal position would not. Positions that require the graduate to pass a bar exam and be licensed after beginning employment in order to retain the position are included in this category. Judicial clerkships are also included in this category.

**2) Employed – JD Advantage.** A position in this category is one for which the employer sought an individual with a JD, and perhaps even required a JD, or for which the JD provided a demonstrable advantage in obtaining or performing the job, but itself does not require bar passage or an active law license or involve practicing law. Notwithstanding the preceding sentence, any position that is a Law School/University Funded position as that term is defined below must be classified as "Employed – Law School/University Funded" rather than Employed – JD Advantage. Examples of positions for which a JD is an advantage include a corporate contracts administrator, alternative dispute resolution specialist, government regulatory analyst, FBI agent, and accountant. Also included might be jobs in personnel or human resources, jobs with investment banks, jobs with consulting firms, jobs doing compliance work in business and industry, jobs in law firm professional development, and jobs in law school career services

offices, admissions offices, or other law school administrative offices. Doctors or nurses who plan to work in a litigation, insurance, or risk management setting, or as expert witnesses, would fall into this category, as would journalists and teachers (in a higher education setting) of law and law related topics. It is an indicator that a position does not fall into this category if a JD is uncommon among persons holding such a position.

**3) Employed – Professional Position.** A position in this category is one that requires professional skills or training but for which a JD is neither required nor a demonstrable advantage. Notwithstanding the preceding sentence, any position that is a Law School/University Funded position as that term is defined below must be classified as “Employed – Law School/University Funded” rather than Employed – Professional Position. Examples of persons in this category include a math or science teacher, business manager, or performing arts specialist. Other examples include professions such as doctors, nurses, engineers, or architects, if a JD was not demonstrably advantageous in obtaining the position or in performing the duties of the position.

**4) Employed – Non-Professional Position.** A position in this category is one that does not require any special professional skills or training. Notwithstanding the preceding sentence, any position that is a Law School/University Funded position as that term is defined below must be classified as “Employed – Law School/University Funded” rather than Employed – Non-Professional Position.

**5) Employed – Law School/University Funded.** Except as noted below, a position is "Law School/University Funded" if it is funded in whole or in part, directly or indirectly, by the graduate's law school or university. A position is funded directly if the graduate is on the payroll of the law school or the university of which it is a part. A position is funded indirectly if the law school or the university of which it is a part funds another entity in any way and in any amount to pay the salary. A position also is funded indirectly if it is paid through funds solicited from or donated by an outside supporter of the law school or university. Thus, a position in the law library is funded directly by the law school or the university. A position in a legal services office or a law firm that is funded in any amount by the law school or the university (either by the law school or university or solicited from or donated by an outside supporter of the law school or university) is funded indirectly by the law school.

For purposes of reporting under this section, however, a position is not considered "Law School/University Funded" if it meets both of the following criteria:

- (a) it meets the definition of a “long-term” position; and
- (b) the position and funding are open to qualified graduates of all ABA-approved law schools.

For example, a position in the office of a university’s general counsel with no expected end date, or a position as a professor with no expected end date, are likely examples of positions that would not be considered “Employed – Law School/University Funded” despite the technical status of the graduate on the payroll of the law school or university.

In reporting on the long-term or short-term duration of “Employed - Law School/University Funded” positions, schools must distinguish between a commitment to fund a position for a year or more, and the additional expectation on the part of the school that the position will last for a year or more. The fact that the school makes a commitment to the graduate to fund the position for a year or more does not in itself establish the required expectation by the law school that the position will last a year or more. Instead, the law school must expect that the graduate will remain in the position for at least a year. Past experience with the length of time that previous graduates have been employed in similar positions is probative of a school's expectations; however, the expectation of the law school is the primary standard for determining whether a position should be reported as long-term or short-term.

The position may be part-time or full-time. Thus, a graduate working 20 hours per week as a research assistant would be included as part-time; a graduate working 40 hours per week in the law library would be included as full-time.

Because the information to answer this question is inherently available to the law school, the burden of answering this question is on the law school and does not depend on the answer that the graduate may provide in any employment survey. Accordingly, either a “yes” or “no” must be checked.

**6) Employed – Job Category Undeterminable.** The graduate is employed, but there is insufficient information available to determine into which of the above categories the position should be placed. This category should rarely be used and then, most often, only when the career services office knows nothing more than the fact of employment.

**7) Pursuing Graduate Degree Full-Time.** The graduate is pursuing further graduate education as of March 15, 2017. Such academic programs include degree-granting and non-degree granting programs. Whether a graduate is enrolled full-time is determined by the definition of full-time given by the school and program in which the graduate is enrolled.

**8) Unemployed – Start Date Deferred.** The graduate has accepted a written offer of employment by the March 15th reporting date, but the start date of the employment is subsequent to March 15th. In order to qualify in this category, the start date must be identified with certainty, or the employer must be compensating the graduate until actual employment begins.

**9) Unemployed – Not Seeking.** As of March 15, 2017, the graduate is “not seeking” employment outside the home and is not employed. Graduates who are not seeking employment because of health, family, religious, or personal reasons are included. A graduate who is performing volunteer work and is not seeking employment is included. Also included is a graduate who was offered a position, turned it down, and is not seeking further employment as of March 15, 2017.

**10) Unemployed – Seeking.** As of March 15, 2017, the graduate is “seeking” employment but is not employed. A graduate who is performing volunteer work and is seeking employment is included. Also included is a graduate who was offered a position, turned it down, and is seeking another position as of March 15, 2017. A graduate who is studying for the bar exam and is not

employed as of March 15, 2017 is considered to be seeking employment unless classification of the graduate as “not seeking” can genuinely be supported by the graduate’s particular circumstances. A graduate who is employed as of March 15, 2017 but seeking another job should be reported in an employed category.

**11) Employment Status Unknown.** The law school does not have information from or about the graduate upon which it can determine the graduate’s employment status.

## **EMPLOYMENT TYPE**

**1-9) Law Firms.** A law firm is a group of attorneys practicing law together regardless of their specific legal relationship. Any job in a law firm, including associate, law clerk, law firm librarian, paralegal, and clerical position, is included. A law firm is included if it is a private, for-profit firm even though it may perform substantial public interest work. However, a firm whose practice primarily involves under-represented clients, or groups that advocate for community interests, is included in Employment Type, Public Interest, below.

A graduate hired by, and working directly for, a law firm on a contract basis is included. However, a graduate working at a law firm but employed by an agency that places attorneys in temporary positions is included in Employment Type, Business and Industry, below.

Questions 1-9 ask for the total number of attorneys in the entire firm. If the firm has multiple offices, this includes the total of all attorneys in all of the offices. All attorneys employed in all offices should be included regardless of their status in the firm.

The category of “solo practice” (Question 1) applies to a graduate who has truly established his or her own solo practice. It does not apply to a graduate who is unemployed, but who may be willing to take an occasional client while still seeking employment. If the graduate is a clerk or associate for a solo practitioner, the firm size should be “Law firm – 2-10 (Question 2).”

**10) Business and Industry.** Business and industry employers include legal temporary agencies, accounting firms, investment banking and financial institutions, entertainment/sports management companies, insurance companies, management consulting firms, publishing houses, technology/e-commerce companies, trade associations, etc.

Positions held in business and industry include temporary attorney work, temporary law clerk or paralegal work, in-house counsel, management, business development/sales/marketing, human resources, consulting, etc. In-house counsel includes positions with the legal department of a company if that position reports directly or indirectly to the office of general counsel.

**11) Government.** Government employers include federal, state and local governments. Government positions include positions in governmental agencies, military positions, and prosecution positions. Government positions also include governmental public defender and appellate defender positions.

**12) Public Interest.** Public interest positions include legal services positions that are funded by the Legal Services Corporation or a similar funding entity; positions with other organizations that provide indigent or reduced-fee legal services, such as prisoners’ legal services and campus legal services; and positions with public interest and non-profit employers, including private non-profit advocacy, religious, social service, fund-raising, community resource, or cause-oriented organizations. Public interest employers also include labor unions, non-profit policy analysis and research organizations, and public and appellate defender positions not funded by the government.

**13-15) Judicial Clerkships.** Judicial clerks include those who are assigned to a specific judge, as well as those who perform duties for two or more judges on a court. Separately report federal clerkships and state and local clerkships. Federal clerkships and state and local clerkships include clerkships for judges or courts of governmental agencies. Report clerkships that are not appropriately federal clerkships or state or local clerkships as “other.” Thus, a clerkship for an international or foreign court should be reported as “other.” Clerkships for the District of Columbia Superior Court and the District of Columbia Court of Appeals are “state and local” clerkships.”

Do not include in this category a graduate who obtained a clerkship that is to start after March 15, 2017. Report that graduate according to his or her employment status as of March 15, 2017.

**16) Education.** Education positions include those at any academic level, including elementary, secondary, and higher education, and regardless of whether they are at private or public institutions. Positions include faculty member, teacher, librarian, and administrator; positions also include law school funded positions such as research “fellow” and clinic staff attorney. Positions outside the academic sphere of an educational institution, such as positions at university hospitals and similar university-related entities, should be reported as a position in business and industry if the institution is a private institution or government if the institution is public.

This category only includes employment in an educational institution; it does not include pursuing a degree or being enrolled in an academic program at an educational institution.

**17) Employer Type Unknown.** The graduate is employed but the law school does not have sufficient information upon which it can determine the graduate’s employment type.

### **EMPLOYMENT LOCATION**

**1) Employed in the United States.** Is the graduate employed in the United States? If so, select the state in which the graduate is employed.

**2) Employed in a foreign country.** Is the graduate employed in a foreign country? If so, enter the country in which the graduate is employed.