

Memorandum

To: Council of the Section of Legal Education and Admissions to the Bar.
From: Bill Adams, Deputy Managing Director
Re: Employment Data Review Update
Date: August 5, 2016

Pursuant to the Protocol for Reviewing Law Graduate Employment Data, and Statement of Procedures for Collecting, Maintaining, and Reporting Law Graduate Employment Data (hereinafter Protocol) passed by the Council, the office procured Berkeley Research Group (BRG) to engage in a review of graduate employment data collected by the schools. BRG has completed the initial stages of its review. As described below, it is conducting follow-up discussions with some schools concerning potential issues that it has discovered thus far.

The initial reviews by BRG consisted of a Standard 509 Website Compliance Review, a Random Graduate Review and a Random School Review. The Website Review consists of a review of each ABA-approved law school's website to determine if its current Employment Summary Report is posted and if the posted data is consistent with the employment information reported by the law school to the ABA. A school found to have not timely posted its data or to have published data that is incomplete, inaccurate, or misleading, may be subject to a Red Flag Review (described below) for a period of up to three years.

The Random School Review consists of a review of all of the Graduate Employment Files of ten randomly selected schools. The files are reviewed to determine if there are deficiencies. In reviewing files, a file is deficient if it lacks documentation to support a key item of reported employment data, or if there is credible evidence that a key item of reported employment data. There are 8 key items of employment data that are subject to this review process, which are listed in the Protocol. If more than 5% of a school's files are found to be deficient, a Level 2 Review (described below) may be ordered.

The Random Graduate Review consists of a review of a random sample of graduate employment files selected from the entire population of all graduates from all ABA-approved law schools. These files are also reviewed to determine if there are deficiencies. If a file is found to be deficient, it may be ordered to submit to a Level 1 Review.

Depending upon what is found in the Website or Random Graduate Reviews, schools can be ordered to submit to a Level 1, Level 2, Level 3 or Red Flag Review. Level 1 Reviews entail a review of all of a school's Graduate Employment Files. A Level 2 Review entails independent verification of the data reported for a random sample of the files of at least 20% of a graduating class. A Level 3 Review requires the school to hire an independent third-party firm to confirm all of its reported employment data. A Red Flag Review may result in any of the above reviews being ordered.

BRG has completed the website review and has completed the preliminary review of the random school and random graduate file reviews. I summarize below the preliminary findings from the initial reviews. BRG is conducting follow-up discussions with the schools that appear to have problem files to determine if potential deficiencies are in fact deficiencies. A committee of three persons, including me, has been appointed by the Data Policy Collections Committee to determine which of the schools with discrepancies should get elevated levels of review.

Below is a summary of the initial findings:

Website Review

- (1) At the time of the audit, one school had not posted its 2015 employment report on its website. This school will be referred to the Accreditation Committee for review.
- (2) Four schools had discrepancies between their data report to us and what was posted on their website. With three of these schools, the discrepancy is only by one person in one category of their report. Another school has a few more minor discrepancies, but not by a large number.

Random Graduate Review

- (1) For the Random Graduate Review, 382 files were selected from 156 schools. Of the 156 schools that had files randomly selected, 16 appeared to have a potential problem with missing items or supporting documentation for an item. Of these 16, 8 had minor issues regarding documentation of an item and probably will not warrant further review. These schools will, however, be notified of the issue and advised to be more careful in documenting items. The remaining 8 may have issues requiring heightened review, but BRG is engaged in discussions with the schools to seek clarification about documentation or ambiguities in the file. In regard to one of these latter 8 schools, it appears to have created its documentation for its files after it was notified that its files would be audited. After BRG reports what it has discovered from its discussions with these sixteen schools, the review committee appointed by the DPCC will determine which of these schools will be subjected to additional reviews.

Random School Review

- (1) Five of the 10 schools randomly selected had compliance rates of 95% or above. Another school is at 94.8% and two are at approximately 86%. The remaining two schools had file compliance rates in the mid-50's. BRG is conducting follow-up discussions with the schools that had more than 5% of their files to determine whether some of the files that appear to be deficient are actually deficient. One of these schools also appears to have created its supporting documentation after it was notified that it had been selected for a file review. After this further review of the schools with a compliance rate below 95%, the review committee will determine which of these schools may warrant a Level 2 Review. All schools will receive a report about what was observed in the review of their files.

Summary

The good news is that the overwhelming majority of schools subjected to the data review have both accurately reported employment results and provided credible documentary support of what they have reported. Of the schools identified for follow-up discussions, most have issues relating to documentation questions. It is not yet evident that any of these schools has misreported data. Our documentation requirements are quite specific and some think complex so it is reasonable, that in the first year of this review, there may be confusion over what we require. The two schools that appear to have created their documentation after the fact raise more serious problems, but they may also be able to explain that what we perceive is not accurate. We will report what we ultimately determine after BRG completes its final review.