

rom: Gerken, Heather [mailto:heather.gerken@yale.edu]

Sent: Tuesday, August 8, 2017 10:24 AM

To: Currier, Barry <Barry.Currier@americanbar.org>

Subject: Letter to ABA from Dean Heather Gerken

August 8, 2017

Barry A. Currier  
Managing Director, Accreditation and Legal Education  
ABA Section of Legal Education and Admissions to the Bar  
321 North Clark Street  
Chicago, IL 60654-7598

Dear Mr. Currier:

Although I joined other law school deans in a letter supporting the revised Employment Outcomes Public Disclosure Form, I write separately to underscore the importance of the ABA treating school-funded fellowships that meet the ABA definition of full-time employment in the same way as other public interest fellowships and entry-level public interest opportunities.

The ABA has a rich history of promoting public interest. With the ever-widening justice gap, it's paramount that the ABA do everything in its power to support law schools, recent graduates, and lawyers in their efforts to provide legal services to underserved communities. The current Public Disclosure Form's treatment of school-funded fellowships undermines the ABA's goals by deterring law schools from creating public-interest fellowships for fear their employment statistics will suffer. By treating school-funded fellowships in the same manner as other public-interest opportunities, the revised Employment Outcomes Public Disclosure Form eliminates this disincentive. It thus heeds concerns expressed by many judges, students, and lawyers over the years, as the attached correspondence makes clear.

Yale Law School joins the ABA in its goal of advancing the Rule of Law by assuring that our students have meaningful opportunities to serve the public. The fellowships we provide our recent graduates jumpstart their careers in public interest and are source of enormous pride within our community. Correctly reporting these school-funded fellowships not only signals to prospective students that there are many opportunities for public-interest careers, but also demonstrates to current students, recent graduates, and host organizations that the ABA understands the importance of this work.

I applaud the change in the ABA's reporting of school-funded fellowships that meet the definition of full-time employment and welcome the opportunity to share my views with the Council and membership.

Sincerely,



Heather Gerken

Dean

Sol & Lillian Goldman Professor of Law

Yale Law School

March 10, 2015

Joan S. Howland  
Council Chair, ABA Section of Legal Education and Admissions to the Bar  
Roger F. Noreen Professor of Law  
Associate Dean for Information and Technology  
University of Minnesota Law School

Dear Dean Howland:

We understand that the Council of the American Bar Association's Section of Legal Education and Admissions to the Bar will be meeting this week to discuss a significant change in the manner in which law schools are asked to report employment statistics for their graduating classes. We further understand, based on a conversation you had on Monday with one of the undersigned, that you would welcome the thoughts of members of the federal judiciary.

We thank you for inviting our participation in this critically important conversation. Our concern, in particular, is that the ABA Data Policy and Collection Committee has recommended that public interest fellowships that are funded by a law school and are for not more than one year's duration will be classified as "short-term" employment positions. This troubles us both because of what it means for law students who wish to pursue public interest careers, and for what it means for the marginalized populations that they serve.

Most of us have seen our law clerks begin careers in public interest law that likely would not have been possible without the support provided by some of the very fellowships at issue here. Over the years, in the course of following our clerks' careers, we have seen firsthand the outstanding and much-needed work the recipients of these fellowships do for some of the most vulnerable in our society. We are proud of the work our clerks have done, and we believe the Bar should be too. The support these fellowships have given them has been critical to their success and to meeting serious needs for high-quality legal representation. We are concerned that the recommendation, if adopted, will not only affect talented and passionate young lawyers seeking nothing other than to serve the public, but will harm the reputation of the Bar, and damage the public good. We urge you to reject any recommendation that would negatively affect public interest fellowships.

Funding for entry-level positions in public interest law is scarce nationwide, making opportunities for newly graduated lawyers to gain invaluable public interest legal experience increasingly rare. At the same time, legal services agencies and nonprofit legal organizations understandably reserve their infrequent job openings for those with work experience. Young lawyers thus face real challenges in securing such positions, even as these organizations face a desperate need for their time and talents. We see this year after year, as our clerks compete for the few positions available. By creating year-long public interest fellowships, law schools are stepping up to the challenges posed by our profession's commitment to equal justice for all and the realities of public interest funding. The creators of these fellowships should be praised for focusing on meeting the specific and immediate legal needs of particular clients and communities while nurturing committed public interest leaders for the future.

Instead, the DPCC recommendation would punish these law schools by treating their year-long fellowships differently from other year-long opportunities, such as the clerkships we offer in our chambers. As a consequence, many law schools will likely decrease their support for such fellowships. The DPCC recommendation therefore will be seen as weakening the Bar's commitment to both public service and to equal justice for all. Serving the public interest is rightly considered one of the highest ideals of the Bar; indeed, we have dedicated our careers to it. Rather than closing off avenues to public interest legal work, we believe that the Bar should redouble its efforts to provide high quality legal representation to those who cannot afford it. We worry that the DPCC recommendation undermines such efforts.

We urge you to uphold the Bar's commitment to equal justice and to public service, and to reject any recommendation that would harm public interest fellowships. Members of the judiciary are willing -- even eager -- to appear before the Council or any other ABA committee or section to elaborate on any of the foregoing.

Sincerely,

Hon. Nancy F. Atlas, U.S. District Court for the Southern District of Texas  
Hon. Helen G. Berrigan, U.S. District Court for the Eastern District of Louisiana  
Hon. Marsha S. Berzon, U.S. Court of Appeals for the Ninth Circuit  
Hon. Charles R. Breyer, U.S. District Court for the Northern District of California  
Hon. Guido Calabresi, U.S. Court of Appeals for the Second Circuit  
Hon. Warren W. Eginton, U.S. District Court for the District of Connecticut  
Hon. Keith P. Ellison, U.S. District Court for the Southern District of Texas  
Hon. Holly B. Fitzsimmons, U.S. District Court for the District of Connecticut  
Hon. Janet C. Hall, Chief Judge, U.S. District Court for the District of Connecticut  
Hon. David F. Hamilton, U.S. Court of Appeals for the Seventh Circuit  
Hon. Amy Berman Jackson, U.S. District Court for the District of Columbia  
Hon. M. Margaret McKeown, U.S. Court of Appeals for the Ninth Circuit  
Hon. Stephen Reinhardt, U.S. Court of Appeals for the Ninth Circuit  
Hon. Shira A. Scheindlin, U.S. District Court for the Southern District of New York  
Hon. Mary M. Schroeder, U.S. Court of Appeals for the Ninth Circuit  
Hon. William K. Sessions III, U.S. District Court for the District of Vermont  
Hon. Myron H. Thompson, U.S. District Court for the Middle District of Alabama



March 10, 2015

Joan S. Howland, Council Chairperson  
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Via email to: [howla001@umn.edu](mailto:howla001@umn.edu)

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Dear Prof. Howland:

I am writing to you as the President of the Legal Services Corporation (LSC) regarding the Data Policy and Collection Committee's March 2, 2015, memorandum "Revisions to the Employment Questionnaire Relating to School-Funded Positions." The memorandum recommended that law schools be required to report law school funded one-year public interest fellowships in the category of "short term" employment without indicating whether the fellowships require bar passage, are J.D. advantage, or are professional employment. These fellowships are vital to help address the unmet legal needs of low-income Americans and to support law school graduates embarking on public interest careers. LSC is deeply concerned about any changes to the ABA's reporting requirements that would reduce the incentives for law schools to support these important public interest fellowships.

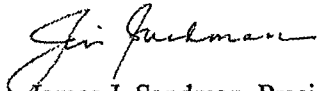
LSC is the single largest funder of civil legal aid for low-income people in the United States. In 2014, LSC distributed \$336 million of federally appropriated funds to 134 independent legal aid programs with nearly 800 offices throughout the United States and territories. In 2013, LSC grantees employed 4,064 attorneys, of whom 737 had three years or less of experience. LSC grantees closed 648,026 cases for low-income clients in 2013.

Despite these efforts, LSC grantees turn away at least half of the applicants for services due to a lack of resources. Studies consistently show that only 20 percent of the civil legal needs of low-income people are met, and state courts across the country are today overwhelmed with unrepresented litigants. Under these circumstances, every potential resource and every additional dollar for legal aid employment is critical to helping to bridge this enormous access to justice gap. The 2012 Report of the LSC Pro Bono Task Force underscored the importance of engaging law students and recent law school graduates to help meet the legal needs of America's low-income people today and in the future

Prof. Joan S. Howland  
March 10, 2015  
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I recognize that the Committee and the ABA need to obtain accurate and transparent information about employment of recent law school graduates. I firmly believe that the ABA can collect accurate and useful data without diminishing the value of these vital programs to the law schools that support them. Please let me know if there is anything I can do to assist you in those efforts.

Yours truly,

A handwritten signature in cursive script, appearing to read "Jim Sandman".

James J. Sandman, President

March 9, 2015

Joan S. Howland  
Council Chair, ABA Section of Legal Education and Admissions to the Bar  
Roger F. Noreen Professor of Law  
Associate Dean for Information and Technology  
University of Minnesota Law School

Dear Dean Howland:

We write in our capacity as clinical legal educators, to express our disapproval of the recent recommendation of the March 2, 2015 Memorandum of the Section's Data Policy and Collection Committee to classify year-long school-funded public interest fellowships as "short-term" employment positions. As clinical educators, we seek to equip our law students with the knowledge, skills, and values required to meet pressing legal needs, and to prepare them for future careers in public service. Through our relationships with local and national legal services providers, we have also come to appreciate the resource and sustainability challenges that many of these groups face. The recommendation, if adopted, will frustrate our students' ability to pursue careers in the public interest, and thereby undermine a core goal of clinical legal education. The recommendation will also exacerbate the deficits in legal representation among indigent clients, and will likely diminish the reputation of the bar itself.

Funding for entry-level positions in public service law is scarce all over the country. So are opportunities for newly graduated lawyers to gain invaluable experience in public service. In our experience, legal services and nonprofit lawyer organizations typically reserve their scarce job openings for those with work experience and bar admission. For that reason, our law students face real challenges in obtaining the postgraduate experience necessary to secure permanent public interest positions, even as organizations across the country face a desperate need for their time and talents. By creating year-long public service fellowships, law schools have stepped up to the challenge posed by the justice gap. These law school initiatives echo successful programs run by Equal Justice Works, the Skadden law firm, and the Immigrant Justice Corps, which address the needs of clients and communities and help graduating law students pursue their ideals.

The DPCC recommendation will have the direct and immediate effect of harming our students and the communities they hope to serve. The DPCC recommendation will punish law schools by treating their year-long fellowships differently from other year-long opportunities. Many law schools will understandably decrease their support for such fellowships. The DPCC recommendation signals a decreasing commitment to public service by the Bar at a time of a staggering gulf between justice for those who can afford it and those who cannot. Why would the bar seek to chill schools who seek to encourage students to pursue public service? Why close off avenues to public service when the state courts, judges, and bar leaders urge that we redouble our efforts to provide legal representation to those who cannot afford it? The spirit of this

recommendation is directly contrary to the values that we, as clinical educators, seek to instill in our students.

We look forward to your response and urge you to reject the DPPC recommendation.

Sincerely,

*\*Note: The undersigned are writing in their personal capacity. Titles and affiliations are provided for identification purposes only.*

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Dear Ms. Howland:

We are troubled by the recent recommendation of the March 2, 2015 Memorandum of ABA Data and Policy and Collection Committee to classify year-long school-funded public interest fellowships as "short-term" employment positions. As law students, we seek positions in public interest organizations to serve communities in need, and we fear that this recommendation, if adopted, will directly undermine our capacity to enter public interest work upon graduation. It will harm talented and motivated students; it will damage the nation's public good; and it will diminish the reputation of the bar itself.

Funding for entry-level positions in public service law is scarce all over the country. So are opportunities for newly graduated lawyers to gain invaluable experience in public service. Legal services and nonprofit lawyer organizations understandably reserve their scarce job openings for those with work experience and bar admission. Law students face real challenges in obtaining the postgraduate experience necessary to secure permanent public interest positions, even as non-profit organizations face a desperate need for their time and talents. By creating year-long public service fellowships, law schools are stepping up to the challenge posed by the justice gap. Organizations like Equal Justice Works and the Skadden law firm should be praised for seeking to address the needs of clients and communities and for helping graduating law students pursue their ideals.

The DPCC recommendation will have the direct and immediate effect of harming many students seeking to enter a career in public interest law, as well as the communities they wish to serve. The DPCC recommendation will punish law schools by treating their year-long fellowships differently than other year-long opportunities. Many law schools will understandably decrease their support for such fellowships. The DPCC recommendation signals a decreasing commitment to public service by the bar at a time of a staggering gulf between justice for those who can afford it and those who cannot. Why would the bar seek to chill schools who encourage students to pursue public service? Why close off avenues of public service when the state courts judges and bar leaders urge that we redouble our efforts to provide legal representation to those who cannot afford it?

We look forward to your response and urge you to reject the DPCC recommendation. Clients and communities in need all over the country await your action.

Sincerely,

Members of Yale Law School Clinics, and the Yale Law School Clinical Student Board

Jessie Agatstein  
Mortgage Foreclosure, San Francisco Affirmative Litigation Project

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Capital Punishment Clinic

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