

Thursday, August 3, 2017

Bad behavior by the ABA Legal Education Council

By Brian Leiter

Jerry Organ (St. Thomas) has the details.

UPDATE: At least one of the changes--namely, to stop stigmatizing law-school funded positions--probably makes sense. Here are comments that were forwarded to me that make the case aptly:

The goal of employment reporting is to provide accurate information, including to prospective students and the general public. All who are employed by the ABA's definition (full-time at a salary of at least \$40,000) should be counted as employed, regardless of the source of funding.

To not count graduates on school-funded fellowships as employed (or to treat them differently) presents an inaccurate picture of a law school's actual employment numbers. I, of course, know that there was a time when some law schools tried to game the rankings by employing students at a very low salary. But the ABA changed its definition to address this by requiring a salary of at least \$40,000, which is approximately market rate for many public service jobs. In light of this change in definition, it made total sense for the ABA to revise its reporting form as it did to treat all employment that meets its definition the same regardless of the source of funding. Graduates who are working full-time as public defenders, as legal service lawyers, in non-profits, and for government agencies should be treated the same as those in private firms, regardless of how their salary is being paid.

The ABA long has professed an important public service mission, including to help close the justice gap by helping to ensure representation for those who otherwise cannot afford it. In light of this, it was completely appropriate and necessary for the ABA to change its reporting form as it did. Treating school-funded positions differently penalizes schools that provide fellowships to students to launch their careers in public service and to help provide representation for those who most need it. The reality is that school-funded fellowships often are essential for graduates who want to begin a career in public service. My experience is that these fellowships work exactly as hoped with most of these graduates getting permanent offers at their organization or similar ones. To pick a single example, Gideon's Promise is a wonderful program where the law school provides a fellowship for one year for a graduate to work in a public defender office and then is guaranteed a job for the next two years in that office. I would like to see the ABA encourage law schools to fund such positions, but at the very least the reporting should not penalize law schools that do so or create a disincentive for such funding.

<http://leiterlawschool.typepad.com/leiter/2017/08/bad-behavior-by-the-aba-legal-education-council.html>

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