

August 8, 2017

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

Dear Director Currier:

I write to discuss an issue that has been raised through the Council's approval of the new Employment Outcomes Public Disclosure form this past June. The new form treats all public service positions that meet the ABA's definition of long-term employment in the same way, regardless of the source of the funding for the position. I am strongly in support of this change.

The ABA has been at the forefront of making public service a core value of the legal profession and has drawn attention to the unmet need for legal services. The ABA is also aware of the challenges faced by new graduates wishing to enter careers in public service as their first jobs, rather than as something they can only pursue after they have first held employment in the private sector, often for several years. I am very grateful to Skadden, Equal Justice Works, and the many other organizations who provide funding for entry-level lawyer positions in public service organizations. However, those fellowships do not come close to meeting the need, either from the perspective of the students wanting these jobs or the organizations wanting to hire them but lacking the financial means.

Public service employers have many applicants each year for positions they cannot fund and competitively choose those they wish to hire. These organizations then require these competitively chosen graduates to find their own funding. Regardless of where that funding comes from, the positions themselves are highly competitive, and the work they do is the same as that done by any new public interest lawyer.

Some have said that public interest jobs supported by school-funded fellowships are not jobs "obtained through the free market," and indicated that if public sector employers really wanted these new lawyers, then they would simply hire them. This is a fundamental misunderstanding of the public interest market. These employers want and need entry-level attorneys, both for the work they do and because they know that lawyers who start out in public interest tend to stay there as they gain more experience. But, as the ABA well knows, when an organization serves clients of limited means (or no means), funding for attorneys who represent them must come from other sources. Fortunately, some philanthropists have collaborated with law schools to make this support possible.

Here at the University of Chicago Law School, as at many of my colleagues' institutions, we encourage our students to follow their own paths, and we provide heavy support for our students interested in public interest. Our selective fellowship program funds a small number of students who obtain full-time employment in high-quality public service jobs where the employer wants the new graduate and needs the services that an entry-level lawyer provides, but does not have the means to fund the position itself.¹ As you can see from the Law School's web materials on these fellowships, each of which is generously funded by our alumni, the process for obtaining one is rigorous and highly competitive. The Law School has recently funded graduates in every corner of the country and at such prestigious employers as the ACLU, Shriver National Center on Poverty Law, the Senate Judiciary Committee, and Amnesty International.² These new graduates perform the same work as any graduate doing a public interest fellowship. The only difference is where the money comes from. Our Law School, which has long encouraged our students to pursue careers in public service, backs this encouragement by providing these fellowships when the organizations who hired them cannot.

These fellowships have the goal of creating long-term public interest lawyers, and they succeed. 97% of new graduates who have received one of our school-funded Postgraduate Public Interest Law Fellowships remained in public interest or government immediately after their fellowships; 45% of them with the organization who hosted their fellowship. From talking to my colleagues at other schools, I know that many of them have similar stories to tell about the success of their programs, and I am sure you are hearing from them as well.

At the same time, I support transparency in how law schools disclose the employment outcomes of their graduates, and I believe that it is critical that all law schools report data in a way that is clear, accurate, and transparent to prospective students. I am not hesitant to report how many of our students' fellowships are school-funded; indeed, I am incredibly proud of our fellowship program and our fellows, and we promote this program and these statistics regularly. However, when the ABA separates out the school-funded positions and declares them not to be "real jobs," this devalues public interest work and undercounts how many students are taking highly competitive and intensely desirable positions upon graduation.

I am sure you are hearing from many of my colleagues about the process by which these changes were made, and I join them in preferring an opportunity to comment on such changes before they are made. Our profession needs transparency both in the reporting of employment outcomes and in the processes for determining the methods of reporting. I would be glad to advocate for fair treatment of public service positions at open hearings on this topic.

Please do not hesitate to contact me with any questions.

Sincerely,



Thomas J. Miles

¹ <http://www.law.uchicago.edu/publicinterest/students/postgradfellowship>.

² Read more about where our fellowship grantees have worked at <http://www.law.uchicago.edu/node/11544>.