

Currier, Barry

From: Currier, Barry
Sent: Tuesday, August 8, 2017 5:15 PM
To: Currier, Barry
Subject: FW: Re Changes to the Employment Summary Report and the Classification of Law-School Funded Positions

From: Derek Muller
Sent: Tuesday, August 8, 2017 4:11 PM
To: Currier, Barry <Barry.Currier@americanbar.org>
Subject: Re Changes to the Employment Summary Report and the Classification of Law-School Funded Positions

Dear Mr. Currier,

I:

1) petition the Council to suspend implementation of the proposal until at least the Class of 2018, and direct the Section to implement for the Class of 2017, the Employment Questionnaire as approved at the June meeting, together with the Employment Summary Report used for the Class of 2016, and

2) petition the Council to direct the Standards Review Committee to

a. delineate all of the changes in the Employment Questionnaire that would be necessary to implement the proposal, and

b. provide notice of all proposed changes to the Employment Questionnaire and Employment Summary Report and an opportunity to comment on the proposed changes before the Council takes any further action to implement the proposal.

The unusual and truncated process to adopt these proposals is reason enough to oppose the change. But the substance merits additional discussion.

In particular, I do not believe the statements made in the Mahoney Memorandum sufficiently address the costs of returning to the pre-2015 system of reporting school-funded employment figures as "above the line" totals. The Memorandum contains speculative language in justification of the position advanced ("The NLJ assumed, as would any casual reader," "Many readers may never have learned of the error," "we must assume"), language which should be the basis for further investigation and a weighing of costs and benefits, not of reaching a definitive outcome.

Additionally, the Memorandum uses incomplete statistics to advance its proposal--in particular, that "School-funded positions accounted for 2% of reported employment outcomes for the class of 2016" is more relevant if such positions are distributed roughly equally across institutions. But these positions are not distributed roughly equally, and the fact that a few institutions bear a disproportionate number of such positions should merit deeper investigation before examining the impact of such a change.

Furthermore, the Memorandum's proposal, adopted in the Revised Employment Outcomes Schools Report, includes material errors (including overlapping categories of employment by firm size, where an individual in a firm with 10 people would be both in a firm with "2-10" and "10-100"; the same for 100 and the categories "10-100" and "100-500") that never should have made it to the Section.

I find much to be lauded in the objectives of the Section in the area of disclosure. Improving disclosures to minimize reporting errors, streamline unnecessary categories, and provide meaningful transparency in ways that consumers find beneficial are good and important goals. The Section should do so with the care and diligence it has done in its past revisions, which is why it ought to suspend implementation of this proposal.

Best,

/s/ Prof. Derek T. Muller

Derek T. Muller
Associate Professor of Law
Pepperdine University School of Law