



Risa L. Goluboff

DEAN • ARNOLD H. LEON PROFESSOR OF LAW • PROFESSOR OF HISTORY

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

Dear Barry:

Thank you for your invitation to provide input regarding the Council's decision at its June 2017 meeting to revise law school employment outcome reporting. I am writing to elaborate on the support for the June changes expressed in the August 8 letter sent on behalf of 14 deans, of which I was one. I endorse the June revisions for two primary reasons: elimination of confusion and promotion of public service. I also disagree with the characterization that this support is largely motivated by a concern with law school rankings and/or a desire to reduce transparency.

Elimination of Confusion

When the ABA published the class of 2016 employment outcomes earlier this spring, news organizations, members of the legal community, and others posted stories summarizing and analyzing the data. Some of those stories contained information and statements that were clearly erroneous, which the publishing organizations retracted once the errors had been identified by various law schools (including mine) and confirmed by the ABA. My understanding is that the Council reviewed examples of these errors at its meeting in June.

These errors resulted from confusion surrounding the employment reporting format that the Data Policy and Collection Committee persuaded the Council to adopt in 2015. Given this confusion, which led even experienced members of the legal community (such as *The National Law Journal*) to misunderstand and misinterpret the ABA employment data, it would have been surprising and disappointing if the Council had not acted expeditiously to revise the employment reporting format. If experienced members of the legal community were confused, how many applicants were similarly unable to interpret the data accurately?

Promotion of Public Service

In keeping with the ABA's stated goal of supporting public service, I strongly believe that the ABA should be encouraging law schools to expand their support, not reduce it. As the letter of August 8 indicates, support for public service fellowships is particularly important given the difficulty of securing public interest employment immediately following graduation.

I am proud of my law school's public service fellowship program, and I believe the ABA should be too. Unfortunately, the employment reporting format adopted in 2015 moved graduates who pursue public service careers via public service fellowships "above the line"—that is, outside the standard employment classifications of Bar Passage Required, J.D. Advantage, Professional Position, and Non-Professional Position used for all other positions. This means, for example, that a graduate working as a public defender through a public service fellowship is no longer counted as being employed in a bar-passage required job. That is simply not accurate.

In addition to being misleading, this treatment communicates to public service graduates and to the wider legal community that public service jobs and public service careers are less important, less valuable, and less meaningful than private sector jobs and private sector careers. Is that the message we want to be communicating to prospective and current law students? Graduates who pursue public service careers via public service fellowships should be treated like every other graduate in the "above the line" section of the ABA employment reporting format, not singled out as second-class citizens.

Rankings and Transparency

I have been dismayed by the implication in some of the recent public discussions about employment outcome reporting that those of us who support the June changes are largely motivated by a concern with law school rankings or a desire to hide information from applicants or the public.

As we all know, rankings are the product of myriad and complex factors. I do not believe that the changes the Council adopted in June will materially affect the *U.S. News* rankings of law schools with vibrant and long-standing public service fellowship programs such as Yale, NYU, and Virginia. Despite repeated fluctuations in the treatment of public service fellowships by the ABA and *U.S. News* over the past four years, the rankings of Yale, NYU, and Virginia have remained exactly the same. Given the stability of these rankings, it is difficult to see how the most recent changes would have any more substantial effect.

Moreover, Virginia has always been transparent about the number of school-funded public service fellowships we have provided to each graduating class. In addition to publishing the number of such fellowships on our web site, we publish information about the different fellowship programs we offer, the public service organizations who hire our fellows, and how those fellowships fit into our larger program of support for public

service, which also includes our loan forgiveness program, summer public interest fellowships, and the like. We actively promote all of these programs to our applicants, many of whom are interested in pursuing public service careers and are looking to attend a law school that will support their public interest goals. Moreover, far from hiding our employment data, we make it publicly available on our web site and in other formats. The suggestion that we might want to hide or conceal information about these programs is simply not true.

Process and Moving Forward

With regard to process, I believe that everyone wants and deserves an opportunity to be heard, and I hope the Council will listen to and consider input from people on all sides of these important issues. I very much appreciate the opportunity to offer my perspective.

In my opinion, it would be unfortunate and disappointing for the reporting format adopted in 2015 to be used for yet another reporting cycle given the demonstrated confusion it has caused and its devaluation of public service positions and public service careers. As the Council's action in June suggested, these are problems that warrant immediate attention and an immediate remedy.

I urge the Council to retain the reporting format adopted in June. Alternatively, I urge the Council to return to the reporting format that existed prior to the fundamentally flawed one that was adopted in 2015. Either of these options—perhaps with modest adjustments—would provide a solid foundation for both current reporting and continued discussion of these important issues.

Sincerely,



Risa L. Goluboff
Dean, Arnold H. Leon Professor of Law, and Professor of History
University of Virginia School of Law