

May 30, 2017

MEMORANDUM

To: Members of the Council
From: Paul Mahoney
Re: Employment Summary Report

In the past several years, the Council has made numerous changes to the way law schools report graduates' employment outcomes. Based on various third-party information and ranking services' recent use of our raw employment data, it is clear that our data are both excessively complex and confusing. I think it is essential that we revise the Employment Summary Report without delay.

Complexity

The Employment Summary Report currently contains 158 individual cells. The proliferation of categories responded to criticisms by organizations like Law School Transparency and academics like Paul Campos, who argued that broad categorizations of "employed" versus "unemployed" masked important differences in job quality. We accordingly require schools to categorize jobs across multiple dimensions, including whether a job is part-time or full-time, long-term or short-term, JD-required or not, and so on.

Inspection of individual schools' Employment Summary Reports and aggregate data taken from them demonstrates conclusively that we went overboard. In aggregate, 62% of all entries are zeroes for the Employment Summary Reports for the class of 2016, while only 17 cells, on average, contain entries that amount to more than 5% of employment outcomes. This would be tolerable if the reports' granularity enabled students to identify schools that are having trouble placing their graduates, but that is not the case. Even the three schools—Ave Maria, Charlotte, and Valparaiso—that have recently been the subject of adverse action by the Council show zeroes in 57% of the cells in aggregate.

Third parties generally rely on a handful of the entries and treat the remainder as uninformative. The National Law Journal ranks schools based on the percentage of "gold standard" jobs, meaning long-term, full-time, bar passage-required jobs not funded by the school. Others focus on "elite" jobs, meaning the sum of large law firm employment and federal clerkships. *US News* gives full weight to long-term, full-time jobs for which bar passage is required or for which it provides an advantage and that are not school-funded. More specialized rankings help prospective students identify schools that send significant numbers to public interest employment or to particular geographic markets. But all of them combined use only a modest fraction of the information in the reports.

The Employment Summary Report could be simplified and shortened substantially without loss of value. To take a simple example, fewer than 10% of all 2016 graduates in aggregate are assigned to either the "long-term, part-time," "short-term, full-time," and "short-

term, part-time” columns; those could easily be collapsed into a single “not long-term, full-time” column. While substantially shortening the report, the change would not deprive prospective students of useful information. The fact that Law School A placed 1% of its graduates in long-term, part-time jobs and 0.5% in short-term, full-time jobs, while for Law School B it was the reverse, cannot plausibly be of any interest or importance to prospective students.

Confusion

Effective for the class of 2015, the Council changed the way the Employment Summary Report describes public interest fellowships and other positions for which a law school or affiliated entity provides some or all of the funding. These fellowships typically provide funding for one or two years to successful applicants who secure staff attorney positions at public interest organizations.

Under our prior definitions, and consistent with the common sense meaning of the terms, the jobs held by these fellowship recipients would be categorized as long-term, full-time, bar passage required. A prospective law student, journalist, or other casual user of our data would expect to see them included in the left-hand cell in the first row of the Employment Summary Report, which purports to count graduates employed in long-term, full-time, bar passage required jobs.

The Council, however, decided to exclude such graduates from this total. We departed from the plain language and logic of the summary because of a concern that our prior practice was misleading to current and prospective law students. We further decided, again in the face of our own definitions and normal English usage, to categorize school-funded employment as long-term or short-term based not on the duration of the job, but on its salary.

As we should have anticipated, these non-obvious changes badly misled third-party ranking services (and probably most prospective law students who looked at individual school reports). In mid-May, the *National Law Journal* released its 2016 Law Grads Hiring Report. The Report ranks schools based on the portion of 2016 graduates who secured long-term, full-time, bar passage required jobs not funded by the law school.¹ Unfortunately, the NLJ assumed, as would any casual reader, that the “long-term, full-time, bar passage required” line included such jobs that happened to be funded by the law school. Accordingly, it subtracted the number of school-funded jobs from that total. This had the effect of subtracting those positions twice for ranking purposes.

Later in the day, after a number of schools had pointed out the error, and following a conversation with Barry Currier, the NLJ released a revised ranking, headed by the following statement:

¹ The tendency of ratings organizations not to count public interest fellowships and other school-funded jobs as “real” employment was not an organic development, but has followed the ABA’s increasingly stigmatizing treatment of those jobs. Robert Morse of *US News* was explicit on this point in his blog.

Correction: The Top 50 Law Schools and Bar Passage Required & J.D. Advantage charts have been changed to correct a miscalculation that incorrectly lowered the rankings of schools with students in school-funded positions.

Of course, the revised version was not supported by the same email blitz and press release that accompanied the original. Moreover, several other prominent law-related web sites had already reprinted the ranking. Many readers may never have learned of the error.

At least one law-related blog made the same mistake independently. The site lawschooltuitionbubble.com posted commentary on and a ranking of employment outcomes. After a few days, it posted the following:

I made a few unfortunately significant errors when I compiled the data and created the table for full-time, long-term, bar-passage-required outcomes by law school in my first post on this topic. I overlooked the fact that the ABA now separates school-funded jobs in its employment status breakdown, meaning I subtracted school-funded jobs needlessly.

The ABA Council is of course not concerned with the relative ranking of individual schools on web sites. But we should be concerned, and deeply, about the fact that our too-clever-by-half treatment of school-funded jobs was a proximate cause of these mistakes. Needless to say, if organizations like the *NLJ* were misled by the Employment Summary Reports, we must assume that most prospective students who looked at these reports without the mediation of a ranking service were misled as well. This will have real and deleterious effects as successful applicants select law schools based on misunderstandings.

In short, we applied a cure that is more misleading than the original disease. Recall that we began down this path because a number of commentators were concerned that some law schools were actively deceiving prospective students by hiring unemployed graduates to perform menial tasks and counting them as employed. But over time our concern has become an obsession. School-funded positions accounted for 2% of reported employment outcomes for the class of 2016, but we devote 19% of the entries in the Employment Summary Report to those positions.

We can provide more easily understood, accurate information and reduce the information overload simultaneously through two simple fixes. First, we should again include school-funded positions in the “above the line” totals where they would be expected, based on their actual duration, bar passage requirements, and so forth. Second, in the “below the line” totals, we should include fellowships with an annual salary above \$40,000, which we have already recognized as comparable to Skadden/EJW fellowships, in the totals for government or public interest, as appropriate, and only in those totals. All other school-funded positions should go into their own category, “Employed by school,” which need take up only one row in the form. It makes far more sense to treat salary as relevant to the *type* of employment than to the *duration* of employment.

I include a mock-up of a simplified Employment Summary Report that incorporates all the changes described in this memo and thereby eliminates two-thirds of the current cells. Every cell that has disappeared through consolidation with another in the simplified report accounted for less than 3% of employment outcomes for the class of 2016; most accounted for less than 1%. The simplified report accordingly loses no important and useful information and is substantially more user-friendly and understandable. If our target audience is prospective students, as I believe it should be, this is a clearly superior method of reporting. Moreover, it will decrease the substantial burden we have put on career services offices, who report that they are spending enormous amounts of time compiling, verifying, and participating in the audit of employment data—time they are not spending helping law school graduates to secure employment.

EMPLOYMENT STATUS	FULL TIME LONG TERM	OTHER	NUMBER
Employed-bar passage required			
Employed-JD advantage			
Employed-Other			
Pursuing Graduate Degree Full Time			
Unemployed or status unknown			
EMPLOYMENT TYPE	FULL TIME LONG TERM	OTHER	NUMBER
Law Firms			
Solo			
2-10			
10-100			
100-500			
501 +			
Clerkships-Federal			
Clerkships-State, local & other			
Business & Industry			
Government			
Public Interest			
Education			
Employed by school			
Employer Type Unknown			
EMPLOYMENT LOCATION	STATE		NUMBER
State-Largest Employment			
State-2 nd Largest Employment			
State-3 rd Largest Employment			

New or Revised Definitions

Government/Public Interest. A graduate may be included in this category if the law school or an affiliated entity pays all or part of the graduate’s salary, but only if the graduate is paid at least \$40,000 per year. All other school-funded positions must be included in “Employed by school”

Long-term. A long-term position is one that the employer expects to last at least one year.

Eliminated Definitions

Part-time