

MEMORANDUM

To: Council, ABA Section of Legal Education and Admissions to the Bar

From: Bill Adams, Deputy Managing Director
Kirsten Winek, Manager, Law School Analytics and Reporting

Date: 8/27/18

RE: Proposal for Changes to Protocol for Reviewing Law Graduate Employment Data

We recommend the Council adopt these proposed changes to the way the Random School Review and Random Graduate Review are carried out under the Protocol for Reviewing Law Graduate Employment Data and Statement of Procedures for Collecting, Maintaining, and Reporting Law Graduate Employment Data (Protocol). These proposed changes would eliminate the Random School Review and expand the Random Graduate Review so that each law school would have 10 or 20 graduate employment files reviewed each year. This will allow us to better monitor schools who may have recurring issues with documentation, classification, or misreporting of graduate employment data.

This proposal was created while we were working with an advisory group made up of law school Career Services professionals and NALP leaders to combine the Protocol and other guidance materials into a single document. While an advisory group was not required to change the Random School and Random Graduate Reviews, we benefitted from their input and feedback on a new system of reviewing graduate employment files.

Currently, the Protocol sets forth four different types of reviews of a law school's graduate employment files:

1. Standard 509 Website Compliance Review
2. Random School Review
3. Random Graduate Review
4. Red Flag Review

Our proposal only affects the Random School Review and the Random Graduate Review and would go into effect for the graduating Class of 2018.

Current Random Graduate Review:

As the Protocol is currently written, the Random Graduate Review involves selecting a statistically sound sample of graduates from the total number of all law school graduates nationwide from that year. This means that most law schools (around 150-160) will have a few graduate employment files (usually between 1-7) selected as part of the Random Graduate Review. However, this also means that some law schools will not have any of their graduate employment files reviewed in a given year.

The Random Graduate Review allows us to see a few graduate employment files from most law schools each year. However, it can be difficult to assess a law school's general compliance with the Protocol in just a few files, especially when the Random School Review process allows for some margin of error in

its compliance rate of 95%. Additionally, not every law school has graduate employment files reviewed each year. We think it is important to look at every law school each year not just for compliance and misreporting, but also to monitor any recurring issues with poor record keeping or questionable classifications.

Proposal for New Random Graduate Review:

The Random Graduate Review would entail the ABA's random selection of 10 or 20 graduate employment files from every law school, depending on the size of the law school's graduating class.

- Fewer than 230 graduates: 10 files randomly selected
- 230 or more graduates: 20 files randomly selected

If a law school has a compliance rate of less than 90%, it would undergo additional review. See section entitled "Proposal for Elevated Reviews after the Proposed Random Graduate Review."

Current Random School Review:

According to the Protocol, a Random School Review involves randomly selecting at least 10 law schools each year to have every graduate employment file from their graduating class reviewed by the ABA. Law schools must achieve a compliance rate of 95% or higher during this review. If they do not meet this threshold, law schools must undergo additional review, which entails the ABA doing independent verification of 20% of the graduate employment files through public records or contact with the graduate or graduate's employer, and possibly a review by an independent auditor.

In conducting the Class of 2016 Random School Reviews, Kirsten Winek was generally able to determine whether a law school's graduate employment files would be over or under the 95% compliance rate early in the review process, as schools consistently made the same documentation or classification errors, and some law schools hit their limit of deficient files (5%) fairly early in the review. This made reviewing all of a law school's files – sometimes 300 or more – time-consuming and repetitive as it did not reveal much new information.

Proposal to Eliminate Random School Review:

We propose to eliminate the Random School Review and solely use the Random Graduate Review to review law schools' graduate employment files. The number of files reviewed in this new Random Graduate Review would be roughly 2,500 files each year (the number would fluctuate slightly each year depending on the total number of law school graduates nationwide). This number was chosen due to the fact that Kirsten Winek was able to review approximately 2,500 files for the Class of 2016 between the Random Graduate Review and the Random School Review, while still having enough time to undertake the necessary elevated reviews. (The number to be reviewed for the Class of 2017 is smaller – only about 2,100 files.) Reviewing more than 2,500 files would be difficult from a time perspective as Kirsten Winek is the only file reviewer, mainly to ensure consistency in the reviews and so that one person has a detailed understanding of the graduate employment files submitted each year.

As mentioned previously, expanding the Random Graduate Review and eliminating the Random School Review will allow us to examine 10 or 20 graduate employment files from each law school every year.

Proposal for Elevated Reviews after the Proposed Random Graduate Review:

If a law school does not meet the compliance rate of 90% after the ABA reviews its 10 or 20 files selected for Random Graduate Review, it will be subject to elevated levels of review.

We propose the following elevated reviews (Level 1, Level 2, and Level 3) in light of the fact that not much new information is gained by reviewing all of a law school's graduate employment files. These levels of review keep several features of the current Protocol, including the independent confirmation in Level 2, and the independent auditor's review of the graduate employment files in Level 3.

Level 1 Review: The ABA will randomly select 50% of a law school's graduate employment files for review, excluding those already reviewed as part of the Random Graduate Review. If a law school has a compliance rate of less than 95%, it will be elevated to a Level 2 Review.

Level 2 Review: The ABA will review the remainder of the law school's graduate employment files. It will also randomly select 20% of the law school's graduate employment files for independent confirmation of the data through review of public records or contact with the graduate or graduate's employer. If the law school has a compliance rate of less than 95% for both the file review and the independent confirmation, it will be elevated to a Level 3 Review.

Level 3 Review: The ABA will require the law school to hire an independent auditor to review all the law school's graduate employment files for compliance and randomly select at least 25% of the law school's graduate employment files for independent confirmation of the data through review of public records or contact with the graduate or graduate's employer.