

ABA Guidance Document: Employment Protocols

Data Protocol – Protocol for Collecting, Maintaining, and Reporting Law Graduate Employment Data

Review Protocol – Protocol for Reviewing Law Graduate Employment Data

INTRODUCTION

This document is commonly referred to as the ABA Employment Protocols (hereinafter “Employment Protocols”). The Employment Protocols were approved by the Council of the American Bar Association Section of Legal Education and Admissions to the Bar in September 2018. They became effective with the graduating class of 2018, which included students graduating between September 1, 2017 and August 31, 2018. The Employment Protocols replace all previously-issued guidance materials, including the Protocol and Statement of Procedures that were approved by the Council in June 2014.

While those familiar with the past Protocol and Statement of Procedures will find the Employment Protocols longer, much of this is a result of taking a dense paragraph of text and breaking it into clauses and sub-clauses. The length is also a function of integrating guidance that previously existed across numerous documents and in an array of forms.

The Employment Protocols, like the past Protocol and Statement of Procedures, are also composed of two core sections: newly-titled Protocol for Collecting, Maintaining, and Reporting Law Graduate Employment Data (Data Protocol) and the newly-revised Protocol for Reviewing Law Graduate Employment Data (Review Protocol).

The Employment Protocols also incorporate a series of appendices that contain related documents.

Authority

The information that a school is required to report to the ABA under these Employment Protocols is pursuant to the ABA’s accrediting function to ascertain compliance with the ABA *Standards and Rules of Procedure for Approval of Law Schools* within the exception listed in 34 C.F.R. 99.31(a)(7) of the Family Educational Rights and Privacy Act of 1974.

Purpose

The requirements set forth in these Employment Protocols are intended to promote confidence among the ABA, law schools, law school applicants, and other interested parties that law graduate employment data is complete, accurate, and not misleading, as required by Standard 509 of the ABA *Standards and Rules of Procedure for Approval of Law Schools*.

The Employment Protocols outline the ABA’s processes for reviewing reported graduate employment data to determine whether it is complete, accurate, and not misleading. The Data Protocol describes the obligations of a school in collecting, maintaining, and reporting law graduate employment data, and is designed to ensure that schools create and maintain proper supporting documentation for their reported graduate employment data. The purpose of the Review Protocol is to identify any systemic misreporting issues, not to penalize schools for good faith reporting or nonmaterial errors in collecting, maintaining, and reporting law graduate employment data. When the ABA reviews a school’s reported employment data, it will respect reasonable professional judgments regarding the reporting of graduate employment data when appropriately documented with an explanation and basis for any assumptions made in the reported data.

Reports of intentionally false reporting are rare, and errors that do arise are often the result of inadequate documentation or a good faith misunderstanding of applicable requirements. While

these Employment Protocols are designed to uncover incomplete, inaccurate, or misleading reporting where it exists, a principal goal is to require schools to maintain supporting documentation that substantiates the responses submitted in the Employment Questionnaire (EQ). Ultimately, each school bears responsibility for determining the manner and frequency of communicating with graduates in order to obtain the Key Items of employment information. Likewise, schools act at their own risk when reporting graduate employment data that is unreliable or has not been adequately confirmed, or when supporting documentation is lost or not maintained. It is the responsibility of every law school dean to ensure that the school's reported graduate employment data is accurate, that adequate resources are allocated to the career services office, and that the processes employed by the school in collecting, maintaining, and reporting employment data comply with all the terms of the Employment Protocols.

Expectations

Collecting, maintaining, and reporting graduate employment information is considerably challenging because law schools are largely dependent upon self-reported information from graduates, many of whom are no longer on campus. Graduates often cannot be located or are unwilling to provide the information that the ABA instructs schools to report. Because graduates are often unwilling or unable to provide some of the information sought, schools must find employment information in other ways, such as from employers, licensing authorities, employer websites, subscription databases, and social media. Obtaining information from these third-party sources is time-consuming and difficult. Furthermore, law schools have different levels of resources in their career services offices, and limited resources make obtaining complete and accurate information even more challenging.

By failing to respond to requests from their schools for employment data, either in whole or in part, graduates fail in their obligations to their schools, to prospective law students, and to the legal profession as a whole. Graduates should promptly, accurately, and completely respond to their law school's requests for employment information and should provide updated contact information so that their school can collect, update, or confirm employment data throughout the employment data reporting period. Accordingly, every law school dean should actively support their career services professionals in this endeavor, including leveraging the influence of their office over students and graduates toward emphasizing the importance of this obligation.

Levels of Review

The Review Protocol describes four different types of review that the ABA will use to promote confidence that the graduate employment data reported by law schools is complete, accurate, and not misleading as required by Standard 509 of the ABA *Standards and Rules of Procedure for Approval of Law Schools*. The types of review are:

- Review Protocol 102, ABA Standard 509 Website Compliance Review
- Review Protocol 103, Random Graduate Review
- Review Protocol 104, Elevated Review After Random Graduate Review
- Review Protocol 105, Red Flag Review

The Data Protocol sets forth instructions and guidelines for law schools in collecting, maintaining, reporting, and publishing graduate employment data. In order for the ABA to effectively review reported graduate employment data, law schools must maintain accurate,

contemporaneous, and verifiable documentation that supports the reported responses to the Key Items of employment information. Complying with the Employment Protocols requires a significant investment of time and effort on the part of most law schools. In return, law schools realize a considerable increase in confidence that the graduate employment data reported by all schools is both reliable and accurate. In addition, schools will be assured that they will remain in compliance with ABA Standard 509.

Exclusions

The Employment Protocols do not address the process for reporting graduate employment data in the EQ on the ABA Quest system (www.abaquestionnaire.org). The instructions for schools that manually enter each graduate's employment data directly into the ABA Quest system can be found in Appendix B. Schools using systems such as Symplicity or 12Twenty may have spreadsheets with graduate employment data automatically generated by these systems and ready for upload to the ABA Quest system. Schools that manually enter data for their graduates into the spreadsheet template for upload into the ABA Quest system will find the current spreadsheet template on the ABA Quest system, and the instructions for that template in Appendix B.

ABA Contacts

For questions about any part of the Employment Protocol, please contact:

Kirsten Winek, Manager, Law School Analytics and Reporting: Kirsten.winek@americanbar.org

Ken Williams, Data Analyst: Kenneth.williams@americanbar.org

Andrew Crane, Program Associate: Andrew.crane@americanbar.org

For technical questions relating to the uploading of the EQ or making changes to what was reported in the EQ, please contact:

Ken Williams, Data Analyst: Kenneth.williams@americanbar.org

Andrew Crane, Program Associate: Andrew.crane@americanbar.org

Protocol for Collecting, Maintaining, and Reporting Law Graduate Employment Data (Data Protocol)

DOCUMENTATION OF GRADUATE EMPLOYMENT FILES

The Protocol for Collecting, Maintaining, and Reporting Law Graduate Employment Data (Data Protocol) is set forth in this section. The Data Protocol and related guidance cover a wide range of activities, including the collecting, maintaining, reporting, and publishing of graduate employment data.

To assist in understanding the Data Protocol, many entries are followed by examples. Examples can include both responses to questions submitted by schools, and hypothetical illustrations to help illuminate common points of confusion. While examples normally reference a particular section or subsection of one of the Data Protocols, they often involve, or offer guidance on, parallel sections or subsections.

DATA PROTOCOL 101. PURPOSE AND DEFINITIONS

(a) Purpose

- (1) The purpose of this Data Protocol is to establish the general standards for the reporting of graduate employment data to the ABA in a manner that ensures the information is complete, accurate, and not misleading.
- (2) Reporting data that is complete, accurate, and not misleading is essential for various stakeholders, including prospective law students, current law students, and others.
- (3) An evaluation of the efficacy of these Employment Protocols will be undertaken by the Council no later than three years after adoption.

(b) Definitions – The definitions to the following terms should be understood to apply to any reference to these defined terms within the Employment Protocols, unless otherwise indicated in a specific Protocol.

- (1) **10-Month Employment Data** – Means the employment data for a graduate or class of graduates on the Graduate Employment Status Date.
- (2) **ABA** – Means the American Bar Association, and in these Protocols refers to the ABA Section of Legal Education and Admissions to the Bar, and the various components of that Section, including those responsible for the review of Graduate Employment Data.
- (3) **CSO or Career Services Office** – Means a member of the office or team assigned the career services-related duties at a school.
- (4) **Dean** – Means the dean in the highest point of authority at a school, including someone occupying that role on an interim basis.
- (5) **Dean's Signature Page** – Means the signature page that the dean and senior career services officer of each law school must sign, date, and upload when submitting their school's EQ. A copy is found in Appendix D.
- (6) **Employed or Employment** – Means the graduate has a position in which the graduate receives remuneration for work performed on the Graduate Employment Status Date.
 - (i) A volunteer position, for which the graduate does not receive remuneration, even if the position might ultimately lead to a remunerated position, is not considered Employment.
 - (ii) A graduate who has an offer for a position, even if the graduate has accepted that offer, but who has not commenced performing the duties of that position as of the

Graduate Employment Status Date, is considered Employed – Start Date Deferred.

- (a) From the perspective of the ABA, a graduate in this category is not truly Employed as of the Graduate Employment Status Date. As such, a school should not represent graduates whose position is Start Date Deferred as being employed under the standards of the ABA. This can be confusing, given that the word “Employed” is used in the category, but this was done because the prior name for the category “Unemployed – Start Date Deferred” was not only confusing, but carried the negative stigma associated with the word “Unemployed.”
- (7) **Employment Protocols (or Protocols)** – Consist of the Protocol for Collecting, Maintaining, and Reporting Law Graduate Employment Data (Data Protocol) and the Protocol for Reviewing Law Graduate Employment Data (Review Protocol).
 - (8) **Employment Questionnaire or EQ** – Means the spreadsheet or series of individual, manually-entered graduate profiles containing each graduate’s employment data that is submitted to the ABA Quest System on or before the Graduate Data Reporting Deadline. Schools using systems such as Symplicity or 12Twenty may have these spreadsheets automatically generated by these systems, while some schools manually enter the data for each graduate in the ABA Quest system or fill in the spreadsheet template.
 - (9) **Employment Summary Report** – Means the PDF report of graduate employment data for the graduating class obtained from the ABA Quest system after the school’s EQ has been submitted.
 - (10) **Graduate** – A member of the class of graduates whose employment data is being reported in the EQ.
 - (11) **Graduating Class** – Means all the graduates of a school from a particular academic year. For example, the 2018 graduating class would be comprised of students graduating between September 1, 2017, and August 31, 2018.
 - (12) **Graduate Data Reporting Deadline** – Means the date on which the responses to the EQ must be submitted to the ABA, typically in early April.
 - (13) **Graduate Employment Data** – Means the Key Items of employment information and their associated documentation.
 - (14) **Graduate Employment File** – Means the specific file associated with an individual graduate, and containing all information necessary to support the 10-Month Employment Data reported to the ABA, including:
 - (i) A unique identification number assigned to each graduate by the school, used to identify the graduate’s Graduate Employment File and EQ submission responses;
 - (ii) Any survey issued to the graduate and the responses thereto; and
 - (iii) Any other documentation used to support responses to the Key Items of employment information, including administrative notes and copies of any communications, websites, or other materials.
 - (15) **Graduate Employment Status Date** – Means the employment status of a graduate on March 15 of the reporting year for that Graduating Class.
 - (i) An alternative Graduate Employment Status Date may be necessary where March 15 falls on a weekend, in which case the date will be the Monday after March 15.

- (16) **Key Items of Employment Information (or Key Items)** – The items of employment data that must be included in the Graduate Employment File, as detailed in Appendix A, accompanied by the required documentation and comprised of:
- (i) Employment Status;
 - (ii) Full-Time or Part-Time;
 - (iii) Long-Term or Short-Term;
 - (iv) Employment Type;
 - (v) Employment Start Date; and
 - (vi) Employer Name and Contact Information.
- (17) **Professional Judgment** – Means the use of reasonable professional judgment of a school staff member, as informed and guided by the duties and obligations set forth in the *ABA Standards and Rules of Procedure for Approval of Law Schools*, the Employment Protocols, and the staff member’s professional experience.
- (18) **School** – Means a law school or law school employee, including members of a CSO, as indicated by the use of the term.
- (19) **University** – Means the parent institution of any school, regardless of the formalities of the relationship between the school and its parent institution.

DATA PROTOCOL 102. OBLIGATION TO MAINTAIN, DOCUMENT, AND REPORT ACCURATE INFORMATION

- (a) Each law school is obligated to maintain timely and accurate documentation of a graduate’s employment data.
- (b) Each law school should request post-graduation contact information from students before they graduate and maintain a record of such information, including:
 - (1) School email,
 - (2) Personal email,
 - (3) Physical address, and
 - (4) Phone number.
- (c) A school should make multiple attempts to obtain reliable and accurate responses to the Key Items from a graduate, both before and after graduation.
- (d) A law school may stop contacting a graduate when:
 - (1) A graduate indicates that they no longer wish to be contacted;
 - (2) A graduate states that they will not provide requested data; or
 - (3) Accurate employment data is obtained from the graduate, or through other reliable sources, as set forth in the Data Protocol.
- (e) Once a school has obtained responses to the Key Items from a source that is reliable, accurate, and documented, there is no ongoing obligation to later re-verify that information, unless the school becomes aware of information from a reliable source that would call into question the reliability or accuracy of the response.

- (f) The dean of every law school, and senior career services officer, must certify their school's employment data, as set forth on the Dean's Signature Page, attached as Appendix D.
- (g) Each law school must timely report its employment data and submit files for review to the ABA at the time and in the form set forth in the EQ, Employment Protocols, and such other guidance as the ABA shall issue, including:
 - (1) 10-Month Employment Data, reported in the EQ on or before the Graduate Data Reporting Deadline;
 - (2) Publication of a school's ABA Employment Summary Report on its website under Standard 509;
 - (3) Any Graduate Employment File requested as part of a Random Graduate Review or Elevated Review; and
 - (4) Any Graduate Employment File requested as part of any other review process established by the ABA.
- (h) Professional judgment underlies and must guide all actions of a school with respect to the Employment Protocols, and such other guidance or requirements issued by the ABA, therefore:
 - (1) Professional judgment must guide all of a school's conclusions regarding the reliability of a source of information used in responding to the EQ, the reporting of Key Items, or meeting any other obligation; and
 - (2) Professional judgment must be documented when the response or conclusion is not provided by the graduate or covered by a specific exception to the documentation requirements in this Data Protocol.
- (i) In the event a graduate dies before the Graduate Data Reporting Deadline, no employment data may be reported for that graduate, and a school must:
 - (1) Remove that graduate from the total number of graduates reported in the EQ.
 - (2) Remove any documentation for that graduate from the Graduate Employment File.
- (j) Failure to comply with the Data Protocols may result in various sanctions under the ABA *Standards and Rules of Procedure for Approval of Law Schools*.

Example 1 – Data Protocol 102

Question: Does a school need to conduct an “at graduation” survey or otherwise collect employment information from students prior to graduation?

Answer: While many students are not employed at the time of graduation, because it is easier to communicate with them before they leave campus, law schools should consider conducting an at-graduation survey to obtain future contact information and employment data as of that time. However, there is no obligation to do so.

Example 2 – Data Protocol 102

Question: If we find out after the Graduate Data Reporting Deadline that a graduate was employed prior to the Graduate Employment Status Date, can we amend/update our EQ to add them?

Answer: Yes, for a limited period of time. Corrections to the EQ may be made from approximately two weeks after the Graduate Data Reporting Deadline (when the ABA communicates that the data

is open for updates) until June 30 of the reporting year. No updates or corrections will be accepted after June 30.

To make a correction to your EQ data, please contact the ABA with the following information: the survey ID number of the file being amended, and an explanation of what Key Items are being changed.

A school has an obligation up to June 30 of the reporting year to update the EQ after the Graduate Data Reporting Deadline if it learns that a Key Item of employment information was not accurate as of the Graduate Employment Status Date. A school should contact the ABA as soon as it learns of this change. This obligation lasts until June 30; after this date, no further changes will be allowed.

Once the school makes the change with the ABA, it must add the documentation to support this change to the Graduate Employment File. A school can only add documentation to the Graduate Employment File after the Graduate Data Reporting Deadline if the school has contacted the ABA to make a change to its EQ and the ABA makes that change. The new documentation should not replace anything already in the Graduate Employment File; supporting documentation for what was initially reported to the ABA should remain in the Graduate Employment File.

As part of the Random Graduate Review, schools can provide a cover memo explaining their documentation practices but cannot add/change anything in the Graduate Employment File.

Example 3 – Data Protocol 102(c) and (d)

Question: How often must a school contact a graduate in order to obtain complete employment information?

Answer: The Employment Protocols do not prescribe a minimum number of times a school must contact, or attempt to contact, a graduate. It is left to the reasonable judgment of each school to determine the manner and frequency of contacting graduates to obtain complete employment data. However, because a graduate is considered the best source of information on their own employment data, a school should make reasonable efforts to have its graduates complete surveys before they graduate, and at multiple points after they graduate, until the Graduate Data Reporting Deadline.

Example 4 – Data Protocol 102(e)

Question: Do we need to re-survey graduates who report employment on the “at graduation” survey or can we rely on their answers on the “at graduation” survey? Even in the unlikely case the graduate has done something to alter their employment in the interim, the graduate was still “employed” before the Graduate Employment Status Date.

Answer: You may rely on the graduate’s answers to the “at graduation” survey if you have no reason to believe they are incorrect or that the graduate’s employment has changed. However, if you become aware of a change in the graduate’s employment from a reliable source, you must update the graduate’s data accordingly. Otherwise, there is no requirement to “re-survey” graduates.

That said, even if the start date is before the Graduate Employment Status Date, a graduate cannot be counted as employed if the job ends or the graduate loses the job before the Graduate Employment Status Date. Since you do not have to re-survey your graduates on or just before the Graduate Employment Status Date, you only need to update a graduate’s employment status if you become aware of a change from a reliable source.

Example 5 – Data Protocol 102(e)

Question: Must the supporting documentation for a reported Key Item of employment information be checked or updated as of the Graduate Employment Status Date?

Answer: Schools do not need to check or update reported Key Items of employment information (whether received directly from the graduate or from other appropriate sources) unless the school has reason to believe any of the Key Items are incorrect or it becomes aware from a reliable source that a graduate's employment has changed.

DATA PROTOCOL 103. SOURCES OF INFORMATION

- (a) A source of information for a graduate's Key Items of employment information must be both reliable and accurate, and the lower the reliability or accuracy of a source, the greater the need to seek verification through additional sources.
- (1) A graduate is the best source of information on their own employment data; thus, the following sources are deemed reliable and accurate, on their face:
- (i) Responses to the Key Items entered directly by the graduate, in paper or electronic form, and;
 - (ii) Responses to the Key Items entered by the CSO in direct communication with the graduate, and that are properly documented as set forth in Data Protocol 104.
- (2) A school should make reasonable efforts to obtain responses to the Key Items directly from the graduate but, when the graduate is not responsive or is unavailable, the CSO may rely on information obtained by indirect means or from a third-party source, including the following:
- (i) Information contained in a resume or similar document submitted to the school by the graduate directly, or through its document management system;
 - (ii) Information contained on the publicly available website of the graduate's employer;
 - (iii) Information obtained through direct communication with the graduate's employer, including, but not limited to, communication with any former classmate who is also an employee of the same employer;
 - (iv) Information obtained through written communications, including written electronic communication, between the graduate and any member of the law school faculty or administration, that is forwarded to the CSO;
 - (v) Information obtained through oral communication between the graduate and the school's faculty or administration that is documented by written communication from the faculty member or administrator to the CSO, setting forth:
 - (a) The specific response to any Key Item;
 - (b) The means of communication with the graduate;
 - (c) The date of the communication with the graduate.
 - (vi) Information contained on the graduate's LinkedIn, Twitter, and Facebook accounts, and other accounts as the ABA may approve;
 - (vii) Information contained on Attorney Registration or Bar Directories;
 - (viii) Information contained on business registration pages, such as those maintained by the Secretary of State;
 - (ix) Information obtained through direct communication with the family of the graduate;
or

- (x) Any additional sources set forth in Appendix C to these rules, and any amendments thereto.
- (b) Notwithstanding Data Protocol 103(a), the accuracy of information, even from reliable sources, can be misreported, either by mistake or because the source fails to understand the full scope or intent of a Key Item of employment information, and must be corrected by the school.
 - (1) Where the school has reason to believe a response is inaccurate, it should correct the response, regardless of how reliable the source may otherwise be.
 - (2) The obligation and authority to override a response is vested in each school and supersedes the objections of the source, including the graduate.
 - (3) Any correction to a graduate's employment data, other than changes made directly by the graduate, must be documented under Data Protocol 104.
- (c) When the school knows through a reliable source that a non-responsive graduate is employed, but is unable to obtain information to support responses to the Key Items despite diligent effort, it should respond to the remaining Key Items as set forth below:
 - (1) Absent a specific exception, the default rule is that the school should always choose the least favorable status when reporting a Key Item of employment information for which it lacks a reliable source.
 - (2) Where the school can meet the following requirements, it may substitute its professional judgment for the default rule when reporting a Key Item:
 - (i) The school has specific knowledge of an employer's historic hiring practices, and this knowledge is documented accordingly under Data Protocol 104, including an explanation of the employer's hiring practices;
 - (ii) The employer's historic hiring practices have consistently aligned with the status the school seeks to assign to the graduate; and
 - (iii) There is nothing known that would cause a reasonable person to believe circumstances are different for the graduate whose status is being changed.

Example 1 – Data Protocol 103(a)

Question: If we have a graduate-completed survey from the same calendar year they graduated that says the graduate will start employment on a specific date in the year following, but before the Graduate Employment Status Date, what follow-up/documentation, if any, beyond the graduate survey, do we need?

Answer: None. You may rely on any information given to you directly by the graduate, or any other source that meets the Data Protocol for reliability and accuracy, and that has been properly documented. See Data Protocols 103 and 104, generally. The only time you have an obligation to seek further information or clarification would be where you become aware of information from a reliable source that would cause you to question the reliability or accuracy of the response as indicated in Data Protocol 102(e).

Example 2 – Data Protocol 103(a)(2)

Question: Is a LinkedIn profile a sufficiently reliable source to document a response to the Key Items when a graduate is not on an employer website and does not reply to outreach?

Answer: Yes, as long as you explain any professional judgements or assumptions you are making since a LinkedIn profile does not always contain enough information to satisfy all the Key Items of employment information on its own (for instance, it does not usually include information on the graduate's full-/part-time or long-/short-term status).

Example 3 – Data Protocol 103(a)(2)

Question: In reporting graduate employment data, may a law school rely on an oral communication between a graduate and a dean, professor, or other person employed by the school outside the career services office?

Answer: Yes, a school may rely on oral communication between the graduate and any member of the law school's faculty or administration, provided that the communication is properly documented in the Graduate Employment File as indicated in Data Protocol 104.

Example 4 – Data Protocol 103(b)

Question: A graduate has reported their position as a "Professional Position." We conduct a phone conversation with the graduate to collect information about the position and/or we collect information about the position from third-party sources. Based upon the information we obtain, we conclude that the position meets the definition for "J.D. Advantage" — but the graduate does not agree, and they continue to believe the position is a "Professional Position." Can we use our judgment to categorize the job as J.D. Advantage so long as we include a note indicating why we did that?

Answer: Yes, the school has the authority to override the data reported by the graduate, even in contravention of the graduate's assertions, if the change would be more accurate in the professional judgement of the school. However, proper documentation and/or explanation for the change is required.

Example 5 – Data Protocol 103(b)

Question: What must a school do when it learns that a Key Item of previously collected employment information, reported by a graduate or otherwise, is no longer accurate as of the Graduate Employment Status Date?

Answer: A law school must update Key Items of employment information if it later becomes aware from a reliable source that any aspect of the information is no longer accurate as of the Graduate Employment Status Date. The reported information must accurately represent the most currently known employment information regarding a graduate as of the Graduate Employment Status Date. The school's obligation to revise incorrect information extends beyond the Graduate Data Reporting Deadline to June 30 as detailed in Data Protocol 102 and Example 2 to Data Protocol 102.

Example 6 – Data Protocol 103(c)(2) & 104(b)(5)

Question: The EQ does not have an "unknown" option for reporting Full-Time/Part-Time or Long-Term/Short-Term for an employed graduate. How should a school report on these items when it does not have definitive information from the graduate or other sources?

Answer: In such situations, a school must use reasonable judgment in reporting the graduate employment data and, in the absence of sufficient information to make a reasonable judgment, report the graduate as Part-Time or Short-Term.

However, See Data Protocol 103(c)(2). When the ABA reviews a school's reported employment data, it will respect reasonable professional judgments regarding the reporting of graduate employment

data when appropriately documented with an explanation and the basis for any assumptions made in the reported data. This is a situation that requires the school to carefully consider and justify any decision to choose the most favorable outcome (i.e. Long-Term or Full-Time). The basis to support such conclusions could be numerous, but an example might be knowledge that a particular employer only hires staff attorneys for full-time employment, or that the term of a clerkship with a particular judge is never less than one year. If this is an assumption that is being made, then the Graduate Employment File should be annotated to reflect how the school arrived at this conclusion.

DATA PROTOCOL 104. DOCUMENTATION

(a) General Procedures for Documentation

- (1) Responses to the Key Items must be documented in a Graduate Employment File on or before the Graduate Data Reporting Deadline.
 - (2) Responses to the Key Items may be obtained from multiple sources, and the related documentation must identify which responses were obtained:
 - (i) Directly from the graduate;
 - (ii) From other sources; and/or
 - (iii) From a mix of sources.
 - (3) Where the school uses a survey to collect graduate responses, a copy of the survey reflecting the date it was completed and who completed it must be included in the Graduate Employment File.
 - (4) The form and style of documentation, and changes to documentation, used within the Graduate Employment Files are at a school's discretion, but must be:
 - (i) Generally consistent across all the files within a graduating class; and
 - (ii) Sufficient to allow a person who is not a member of the school, or familiar with its individual practices for collecting and documenting employment data, to understand the documentation and how it supports each Key Item of employment information.
 - (5) A school may create a cover memorandum in preparation for the Random Graduate Review explaining the documentation and procedures employed by a school in creating its Graduate Employment Files to assist in any review but may not use such a memorandum to augment or change documentation in its Graduate Employment Files.
 - (6) Because all documentation is subject to the professional judgment of the school's career services office staff, there is no requirement to include the phrase "In my professional judgment" or any similar phrase when documenting a response.
 - (7) Unsuccessful attempts to obtain information or responses to the Key Items do not need to be tracked or documented in a Graduate Employment File.
 - (8) Each Graduate Employment File must be maintained by a school for no less than four years from the Graduate Data Reporting Deadline.
 - (9) A school must publicly disclose its graduate employment data as set forth in Standard 509 of the ABA's *Standards and Rules of Procedure for Approval of Law Schools*.
- (b) Documentation of Key Items of employment data can come from numerous sources and in various forms, each requiring appropriate documentation.

- (1) Documentation of responses to Key Items provided by the graduate.
 - (i) Documentation of responses provided directly to the law school by the graduate, such as in email or text messages, must include the following:
 - (a) The identity of the graduate;
 - (b) The date the graduate communicated the data;
 - (c) The identity of the law school employee in communication with the graduate; and
 - (d) Copies of the communications.
 - (ii) Documentation of responses recorded by a law school employee in communication with the graduate must include the following:
 - (a) The date of the communication;
 - (b) The means of communication, such as email, phone, messaging, or in-person;
 - (c) Copies of any written or electronic communications;
 - (d) The identity of the law school employee in communication with the graduate; and
 - (e) If the communication is oral, the responses and related documentation should be entered contemporaneously with the communication to ensure accuracy.
 - (iii) Graduate responses documented in accordance with the foregoing are, on their face, sufficient to demonstrate both the reliability and accuracy of the information contained therein.
- (2) Authentication is required for surveys containing responses to the Key Items that are entered directly by the graduate or by a law school employee in direct communication with the graduate.
 - (i) Hard copy surveys are considered authenticated if they are:
 - (a) Signed and dated by the graduate;
 - (b) Returned to the school by the graduate via email, and both the email and its attached survey are in the Graduate Employment File on or before the Graduate Data Reporting Deadline;
 - (c) Completed by a CSO staff member with the graduate present, and then reviewed, signed, and dated by the graduate; or
 - (d) Signed and dated by the law school employee indicating:
 - (i) The responses to the Key Items obtained directly from the graduate; and
 - (ii) The means of communication with the graduate.
 - (ii) Electronic surveys are considered authenticated if they are:
 - (a) Electronically signed and dated by the graduate, including:
 1. The graduate's typed name or email address; and
 2. The date when the graduate responded to the survey.
 - (b) Electronically signed and dated by the law school employee, including:
 - (i) The identity of the law school employee;

- (ii) Documentation by the law school employee that the responses to Key Items were obtained by them through communication with the graduate; and
 - (iii) The means of communication with the graduate.
 - (c) Electronically signed and dated by the software used to distribute and collect the survey¹:
 - (i) That automatically logs the date and identity of the person entering responses to Key Items, including a graduate or a law school employee; or
 - (ii) Can produce a log of the changes made to the survey that a law school may include in the individual Graduate Employment Files as a means of showing who filled out the survey and when and produce if requested by the ABA.
- (3) Documentation of Key Items of employment information by the CSO through indirect means and third-party sources.
- (i) Documentation of Key Items of employment information obtained through indirect and third-party sources must include the following:
 - (a) The source of the information;
 - (b) The date the information is obtained;
 - (c) A printed or electronic copy of the source of information, such as a PDF or printout of the employer website naming the graduate as an employee, including, wherever possible, an integrated indication of the date the document was printed and the URL;
 - (d) The identity of the CSO member who is documenting the information; and
 - (e) Any narrative necessary to explain the source or reliability of the information obtained, where it is not clear from the document itself.
 - (ii) Where multiple sources of information are used to support a response, each source should be documented as set forth above, and, if necessary, a narrative explanation for the use of multiple sources should be included.
 - (iii) If the source of the information is oral communication, any responses and related documentation should be entered into the Graduate Employment File contemporaneously or as soon as is practicable to ensure accuracy.
- (4) Documentation of changes to the Graduate Employment File by the CSO.
- (i) Documentation of changes to the Graduate Employment File by the CSO based on new information should be documented subject to Data Protocol 104(b)(1) – (3), and copies of any prior documentation already included in the file should also be kept in the file as needed to explain the new response.

¹ Software like Symplicity and 12Twenty Event Logs can be used for this purpose, as can spreadsheets created by general survey software, so long as they are placed in the individual Graduate Employment Files before the Employment Data Reporting Deadline. However, because software is subject to continual changes and updates, it is the responsibility of each law school to ensure that the survey software they use can meet these requirements, including the software packages named herein.

- (ii) Documentation of changes to the Graduate Employment File by the CSO based on professional judgment, other than ministerial changes, under Data Collection Protocol 104(b)(4), must include the following:
 - (a) Any source of information relied on to make the change;
 - (b) The date of the change;
 - (c) For changes based on professional judgement, an explanation of the reasoning for the decision; and
 - (d) The identity of the CSO staff member who made and documented the change.
- (5) Lack of Documentation
 - (i) Where a law school lacks reliable information or documentation to support a Key Item of employment information, it must, where permitted, report the item as Unknown or Undeterminable.
 - (ii) If the Key Item of employment information does not permit a response of Unknown or Undeterminable, then the least favorable response to the questions must be selected consistent with Data Protocol 103(c).
 - (iii) Where a school is unable to obtain any reliable information about a graduate, that graduate must be reported as Unknown, and no documentation is required to support this conclusion in the Graduate Employment File.

Example 1 – Data Protocol 104

Question: What is the ABA looking for when it reviews a Graduate Employment File?

Answer: The ABA will examine each Graduate Employment File subject to review to determine whether the information in the file:

- 1) *Matches the information submitted by the school to the ABA in the EQ; and*
- 2) *Supports and properly documents the responses to the Key Items of employment information according to the Data Protocol.*

Example 2 – Data Protocol 104(b)(4)

Purely ministerial changes are changes that do not affect the quality of the response, but merely correct a minor error. Thus, correcting the name of an employer that was misspelled is ministerial, whereas changing terms of employment from short-term to long-term is not ministerial. Ministerial changes also include things like correcting the address of the employer or adjusting the firm size.

Example 3 – Data Protocol 104

Question: Does the ABA audit firm size?

Answer: No. The ABA will not audit firm size; however, schools will be notified if numerous and significant discrepancies in firm size are noted (i.e. reporting firms of 2-10 attorneys as firms of 101-250). If a school corrects a graduate-reported firm size, no documentation or explanation is needed for this change as this is a purely ministerial change. See Data Protocol 104(b)(4).

Example 4 – Data Protocol 104

Question: Is it an appropriate practice for a school to send a graduate an email telling the graduate the employment data that the school plans to submit to the ABA about that graduate, and asking the graduate to let the school know if the information is not correct?

Answer: Yes. Where the graduate does not respond to the email, the school may report the information for the graduate as stated in the email as long there is a sufficient basis for the reported Key Items of employment information and the Graduate Employment File includes appropriate documentation as set forth in the Data Protocol.

Example 5 – Data Protocol 104

Question: Does the ABA require or endorse the use of any employment tracking system?

Answer: No. The ABA is aware that there are online databases that allow students and graduates to log in and directly provide employment information. Graduates have the ability to update their profiles when appropriate. These databases track changes and can export the stored data in an Excel spreadsheet for the school's EQ submission. These programs can also provide other information required by the Employment Protocols in a readily accessible format. The ABA is aware that many law schools contract with companies such as Symplicity and 12Twenty for this software. The ABA has cooperated with these companies on some software features, but the ABA does not require or endorse the use of any employment tracking system.

Example 6 – Data Protocol 104

Question: Why do we need to spend so much time documenting dates?

Answer: The main reason for including dates is to ensure that:

- 1) Employment started on/before the Graduate Employment Status Date; and*
- 2) All information/documentation was added to Graduate Employment Files on or before the Graduate Data Reporting Deadline.*

In past years, some Graduate Employment Files had documentation that was dated after the Graduate Data Reporting Deadline or that was not dated at all, meaning either the school failed to timely document the information or the ABA had no way of knowing whether the documentation was timely.

For these reasons, schools must ensure that any screenshots or printouts are dated (either on the documents themselves or through annotation in the Graduate Employment File), and that any notes in the file or changes to the file include who made the note/change and the date this was done, absent a purely ministerial change, as set forth in Data Protocol 104(b)(4).

Example 7 – Data Protocol 104(a)(1)

Question: If we receive documentation from a graduate after the Graduate Data Reporting Deadline confirming a professional judgment we made, should we exclude that from the file because it is received after the Graduate Data Reporting Deadline?

Answer: Yes. The documentation included in a Graduate Employment File, for reporting purposes, is frozen as of the Graduate Data Reporting Deadline unless you report a change to the ABA by June 30 as stated in Example 2 to Data Protocol 102.

Example 8 – Data Protocol 104(a)(3)

Question: We maintain a physical binder for each class year that contains graduate surveys and any additional documentation (screen shots, printouts, etc.). The screen shots and printouts stay in the binder; they are not scanned and uploaded to each Symplicity record. Is this OK?

Answer: Each school has its own way of storing and maintaining Graduate Employment Files. If some information is stored electronically and some is in a physical file, this is sufficient if 1) nothing is added after the Graduate Data Reporting Deadline in either location; and 2) you upload all information from both places when Graduate Employment Files are requested by the ABA.

While not mandatory, the ABA strongly encourages Career Services Offices to maintain Graduate Employment Files in electronic form and to make backup copies. This is because if a Graduate Employment File is lost or destroyed, the ABA will be unable to confirm the reported graduate employment data and the record keeping will be deemed deficient.

Example 9 – Data Protocol 104(a)(7)

Question: Where a school does not have information or documentation regarding one or more of the Key Items of employment information, must it document the efforts that it has made to obtain those items? For example, where a school reports a graduate's employment status as Unknown, must the Graduate Employment File include documentation of the school's attempts to obtain employment information from the graduate?

Answer: No. While it is essential that a Graduate Employment File include appropriate documentation for all reported Key Items of employment information, it need not include documentation of unsuccessful attempts to obtain information. Furthermore, no documentation is required when a graduate is reported as Unknown.

Example 10 – Data Protocol 104(a)(8)

Question: How long are schools required to maintain documentation of a graduate's employment data?

Answer: Schools must maintain all records relating to their reporting of employment data for four years from the Graduate Data Reporting Deadline for that class. For example, records of graduate employment data for the class of 2015, reported on April 7, 2016, must be maintained until at least April 7, 2020.

Example 11 – Data Protocol 104(b)

Question: If the information in a survey is later amended, what documentation is necessary?

Answer: Where the graduate is personally amending the response in the survey, Data Protocol 104(b)(1) applies. If the amendment is being made by a law school employee, then Data Protocol 104(b)(4) applies, requiring the school employee to document and/or explain the basis for the change and still meet any other applicable requirement in the other parts of Data Protocol 104.

Example 12 – Data Protocol 104(b)

Question: When documenting a Key Item of employment information or a change to a Key Item, do I need to enter both the time and the date the entry was made?

Answer: Only the date is required. If the documentation supporting the Key Item in the Graduate Employment File has a date stamp, as is the case when you print out many web pages, the date stamp on that document is sufficient to show when you obtained the information. If the documentation does not include a date stamp, then handwriting the date on the document is

sufficient. Likewise, if you have a page with administrative notes in the Graduate Employment File, you could add a note referencing the supporting documentation and the date you printed the information and added it to the file. All documentation, printouts, and administrative notes must be added to the Graduate Employment File on or before the Graduate Data Reporting Deadline.

Example 13 – Data Protocol 104(b)

Question: Is the date I printed a copy of an employer’s website showing a graduate was employed there sufficient to show the graduate was employed on or before the Graduate Employment Status Date?

Answer: If the date indicated on the printed document or noted in the administrative notes was on or before the Graduate Employment Status Date then, absent some indication to the contrary, the document will be sufficient to show the graduate was employed on or before that date. If the date is after the Graduate Employment Status Date but before the Graduate Data Reporting Deadline, the law school employee should indicate how they know employment began on or before the Graduate Employment Status Date. In either case, all documentation must be in the Graduate Employment File on or before the Graduate Data Reporting Deadline.

Example 14 – Data Protocol 104(b)(1)

Question: What documentation is necessary for reported Key Items of employment information obtained through email communication?

Answer: The Graduate Employment File must include a copy of the email that includes the date of the email, the names of the parties to the email, and the Key Items of employment information that it supports.

Example 15 – Data Protocol 104(a)(2)

Question: Is a graduate’s resume sufficient documentation for Key Items of employment data found in the resume?

Answer: Yes, provided that the Graduate Employment File indicates when the law school received the resume from the graduate. The school may document the date of receipt through a notation in the Graduate Employment File or by taking a screenshot showing the date the resume was uploaded to the school’s employment tracking system. See Data Protocol 103(2)(i), indicating that a resume is considered a reliable source.

Example 16 – Data Protocol 104(b)(5)

Question: If a Graduate Employment File containing documentation is lost or destroyed, or the school otherwise believes a graduate is employed but it does not have supporting documentation, can the school still report the graduate as employed?

Answer: No. If a graduate’s employment data cannot be properly documented, the graduate may not be reported as employed.

Example 17 – Data Protocol 104(b)(2) & 104(b)(3)

Question: What documentation is necessary for reported Key Items of employment information obtained through oral communications?

Answer: Where the only source of a reported Key Item of employment information is a telephone call or other oral communication with the graduate or an acceptable third party, the communication for each Key Item must be individually documented in accordance with Data Protocol 104(b)(2) and

104(b)(3), respectively. Because the information is being received in oral form, the law school employee should take notes as contemporaneously as possible.

Example 18 – Data Protocol 104(b)(5)

Question: What if a school does not have information or documentation regarding a Key Item of a graduate’s employment information?

Answer: Where a school does not have information or documentation for one or more Key Items of employment information for a graduate, it must report the item as “unknown” or “undeterminable” where permitted (i.e. Employment Status and Employment Type).

Where sufficient documentation does not exist to support other Key Items, the least favorable option must be chosen. Thus, as between Long-Term and Short-Term, Short-Term must be selected. Likewise, as between Full-Time and Part-Time, Part-Time must be selected.

Where the school has information that the graduate is unemployed, the graduate must be reported as Unemployed and not as Employment Status Unknown.

Example 19 – Data Protocol 104(b)(3) & 104(b)(5); See also Data Protocol 103(a)(2)

Question: What if a graduate does not provide the school with their graduate employment data?

Answer: As long as the information reported by a school is complete, accurate, and not misleading, and the reported information is properly documented per the Data Protocol, the school will be in compliance. Thus, information may be obtained by contacting employers or using reliable publicly available sources, such as employer websites, state licensing authorities, and approved social media websites including LinkedIn, Facebook, and Twitter (See Data Protocol 103(a)(2)(vi)). If the Key Items of employment information cannot be found for a graduate, the graduate must be reported as Unemployed – Seeking or Unknown.

Example 20 – Data Protocol 104(b)(5); See also Data Protocol 103(c)(2)

Question: The EQ does not have an “unknown” option for reporting Full-Time/Part-Time or Long-Term/Short-Term for an employed graduate. How should a school report on these items when it does not have definitive information from the graduate or other sources?

Answer: In such situations, a school must use reasonable judgment in reporting the graduate employment data and, in the absence of sufficient information to make a reasonable judgment, report the graduate as Part-Time or Short-Term.

However, See Data Protocol 103(c)(2). When the ABA reviews a school’s reported employment data, it will respect reasonable professional judgments regarding the reporting of graduate employment data when appropriately documented with an explanation and the basis for any assumptions made in the reported data. This is a situation that requires the school to carefully consider and justify any decision to choose the most favorable outcome (i.e. Long-Term or Full-Time). The basis to support such conclusions could be numerous, but an example might be knowledge that a particular employer only hires staff attorneys for full-time employment, or that the term of a clerkship with a particular judge is never less than one year. If this is an assumption that is being made, then the Graduate Employment File should be annotated to reflect how the school arrived at this conclusion.

EMPLOYMENT STATUS

DATA PROTOCOL 201. GENERAL REQUIREMENTS – EMPLOYMENT STATUS

- (a) A graduate must be reported under one category of Employment Status, as set forth in Data Protocols 202 through 212.
- (b) When reporting a graduate as Employed under Data Protocols 202 through 208, a school must include the following information:
 - (1) In the EQ:
 - (i) The state in which the graduate is Employed; or
 - (ii) The foreign country in which the graduate is Employed.
 - (2) In the Graduate Employment File:
 - (i) The employer's full mailing address; or
 - (ii) The employer's website; or
 - (iii) The employer's email address.
- (c) A graduate may not be reported as Employed under Data Protocols 202 through 207 if the graduate does not receive remuneration for work performed as of the Employment Status Date, even if the position may ultimately lead to a remunerated position.
- (d) No documentation is necessary for graduates reported as Unemployed or Unknown.

DATA PROTOCOL 202. EMPLOYED – BAR PASSAGE REQUIRED

- (a) Requirements
 - (1) A graduate should be reported as Employed – Bar Passage Required if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date;
 - (iii) The graduate is employed in a position that in fact requires or, from the perspective of the employer does or will require, the graduate to pass a bar exam and be licensed in one or more jurisdictions; and
 - (iv) The position does not come within the definition of a Law School/University Funded position, as set forth in Data Protocol 206.
 - (2) Positions that require a graduate to pass a bar exam and be licensed after beginning employment in order to retain the position are included in this category.
- (b) Presumptions, Considerations, and Exceptions
 - (1) Absent contrary information, no additional documentation is required for Employed – Bar Passage Required for a graduate in a position with the following job titles, and those included in Appendix E, because these positions are presumed to meet the requirements of Data Protocol 202 (a)(1)(iii):
 - (i) Associate/Associate Attorney at a Law Firm,
 - (ii) Attorney,

- (iii) General or Associate General Counsel,
 - (iv) In-House Counsel,
 - (v) Judge Advocate General,
 - (vi) Judicial Law Clerk (all levels),
 - (vii) Lawyer,
 - (viii) Prosecutor/State’s Attorney/District Attorney,
 - (ix) Public Defender,
 - (x) Solo Practitioner, and
 - (xi) Staff Attorney.
- (2) The reporting of a position as Employed – Bar Passage Required is unaffected by an employer’s use of a temporary or lesser title, so long as:
- (i) The graduate or employer is the source of the information; or
 - (ii) The basis for the reported status is properly documented by the school.
- (3) The reporting of a position as Employed – Bar Passage Required is unaffected by the failure of the graduate to pass the bar exam or be admitted to practice, unless, as of the Graduate Employment Status Date:
- (i) The graduate’s employer has changed the terms of the employment to no longer require the graduate to pass a bar exam and be licensed in one or more jurisdictions; or
 - (ii) The graduate’s employment has been terminated.

Example 1 – Data Protocol 202

Question: If the graduate is working as an associate but is not on the firm website, or is listed as a law clerk on the firm website, is the graduate’s representation of themselves as an associate sufficient to classify them as Bar Passage Required, Full-Time, and Long-Term?

Answer: You can always rely on the response given by the graduate, absent reliable information to the contrary.

Separately, if you are asking about the title being an “Associate” and what that allows you to presume, then you need to look to the presumptions in the sections on Long-Term, Full-Time, and Bar Passage Required, presented in Data Protocols 301(b), 302(b) and 202, respectively.

Example 2 – Data Protocol 202(b)(1)

Question: I understand that we can assume Bar Passage Required, Full-Time, and Long-Term for graduates who report themselves as an “Associate” at a law firm. What if they report as “Attorney,” “Staff Attorney,” or other title that is not “Associate?” May the same assumptions be made?

Answer: The ABA has determined that the term “Associate” traditionally refers to a Bar Passage Required, full-time, open-ended term of employment, but that the terms “Attorney” or “Staff Attorney” do not have the same historical connotation. Thus, only an “Associate” at a law firm can be assumed to be Bar Passage Required, Full-Time, and Long-Term, unless the school knows that the firm does not hire associates on these terms. However, a school may assume that “Attorney” or “Staff Attorney” are Bar Passage Required positions.

Example 3 – Data Protocol 202

Question: I am a bit confused regarding graduates who were hired into a Bar Passage Required position, but who do not pass the Bar Exam, yet continue to work for their law firm. How should I report them?

Answer: If the graduate was hired to take on the role of a licensed attorney after they passed the bar exam and were admitted to practice, and the employer is keeping them on and allowing them to take the bar exam again, while still intending that the graduate will take on the full licensed attorney role, then you would continue to report the graduate as Bar Passage Required. If, on the other hand, the job will not convert to that full attorney role, then you must change it from Bar Passage Required to a more appropriate category.

Example 4 – Data Protocol 202

Question: It sounds like a graduate can still be a law clerk and be classified as Bar Passage Required even if they were not hired with the expectation of converting to an attorney position upon bar passage. Is this correct?

Answer: While titles can be helpful, they are not determinative of what a job really is, or how it should be classified. What matters is the actual work the graduate is engaged in and the employer’s perspective on the role.

If the graduate is titled a “Law Clerk” but in the context of that employer a law clerk performs a role that would require admission to the bar and licensure, then they are in a Bar Passage Required position, regardless of title. This is still the case if the person has not yet begun to take on those attorney functions but will be taking them on as a part of their current role.

Also, if the Employer regards the position, regardless of title, as a position that requires bar passage and licensure, then it should be reported a Bar Passage Required position.

Example 5 – Data Protocol 202

Question: You mentioned that if a graduate fails the bar exam, their job category may still be Bar Passage Required unless the job changes. If a graduate has an associate position and fails the bar exam and the firm keeps the graduate on, the graduate cannot practice as an attorney. Wouldn’t the job change significantly?

Answer: No. In this situation, the graduate was hired to be an attorney and the employer expects to have the graduate working as an attorney as soon as Bar Passage is achieved. The employer’s intention is that the graduate will pass the bar exam and be licensed as an attorney. This intention is sufficient to support reporting the graduate as Bar Passage Required.

A paralegal position can only be classified as Bar Passage Required if the graduate is currently called a paralegal but will automatically become an attorney upon Bar Passage with the same employer.

Example 6 – Data Protocol 202

Question: How should judicial clerks be classified?

Answer: All graduates serving as judicial clerks should be classified as having Bar Passage Required positions. No documentation is needed for this classification due to the long-standing practice of including these jobs in the Bar Passage Required category. A graduate who is a judicial clerk can still be classified as Bar Passage Required even if the graduate has not yet passed the bar exam or if Bar Passage is not required for the job.

DATA PROTOCOL 203. EMPLOYED – JD ADVANTAGE

(a) Requirements

- (1) A graduate should be reported as Employed – JD Advantage if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date;
 - (iii) The possession of a JD by the graduate was sought by the employer, required by the employer, or provided a demonstrable advantage in either obtaining or performing the duties of the position from the perspective of the employer;
 - (iv) The duties of the position do not require passage of the bar exam or an active law license or involve practicing law;
 - (v) The position does not come within the definition of a Law School/University Funded position, as set forth in Data Protocol 206.

(b) Presumptions, Considerations, and Exceptions

- (1) Absent contrary information, no additional documentation is required for Employed – JD Advantage for a graduate in a position with the following job titles, and those included in Appendix E, because these positions are presumed to meet the requirements of Data Protocol 203(a)(1)(iii) and (a)(1)(iv):
 - (i) Accountant,
 - (ii) Alternative Dispute Resolution Specialist,
 - (iii) Compliance Manager/Specialist,
 - (iv) Contracts Administrator,
 - (v) FBI Agent,
 - (vi) Landman,
 - (vii) Law Clerk;
 - (viii) Paralegal/Legal Assistant,
 - (ix) Patent Agent,
 - (x) Police Captain,
 - (xi) Regulatory Analyst, and
 - (xii) Tax Associate at Accounting or Consulting Firm.
- (2) Because the applicable list of employers, duties, and titles associated with Employed – JD Advantage positions is expansive:
 - (i) If the graduate is the source of the reported information, and the school has no basis to question the graduate’s conclusion, no additional documentation is necessary, but
 - (ii) If the graduate is not the source of the information, the school must document its professional judgment in reporting the position as Employed – JD Advantage.

Example 1 – Data Protocol 203

Graduates can land an immense array of jobs that come under the Employed – JD Advantage category. To help in classifying the graduate’s job, Data Protocol 203(b)(1) and Appendix E provide some examples of positions that qualify as Employed – JD Advantage. However, these are not exhaustive lists. Career Services Office staff must apply their professional judgment in assessing

whether the graduate's specific job meets the requirements for JD Advantage, and then must document that conclusion accordingly. While this can be a burden, keep in mind that the ABA will respect reasonable professional judgements regarding the reporting of graduate employment data when appropriately documented with an explanation and basis for any assumptions made.

JD Advantage jobs may be found in variety of industries, including:

- 1) Accounting or tax firms*
- 2) Colleges and Universities (including athletics, academics, student services, etc.)*
- 3) Compliance departments in business, industry, and elsewhere*
- 4) Consulting firms*
- 5) Hospitals and health systems*
- 6) Human Resources departments*
- 7) Investment banks*
- 8) Law Firms*

DATA PROTOCOL 204. EMPLOYED – PROFESSIONAL POSITION

(a) Requirements

- (1) A graduate should be reported as Employed – Professional Position if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date;
 - (iii) The position requires professional skills or training, managerial or supervisory responsibilities, or the regular use of professional judgment;
 - (iv) The possession of a JD was neither required nor a demonstrable advantage in obtaining or performing the role from the perspective of the employer; and
 - (v) The position does not come within the definition of a Law School/University Funded position, as set forth in Data Protocol 206.

(b) Presumptions, Considerations, and Exceptions

- (1) Absent contrary information, no additional documentation is required for Employed – Professional Position for a graduate in a position with the following job titles, and those included in Appendix E, because these positions are presumed to meet the requirements of Data Protocol 204(a)(1)(iii) and (a)(1)(iv):
 - (i) Bailiff,
 - (ii) Business manager,
 - (iii) Doctor,
 - (iv) Engineer,
 - (v) Financial Planner/Advisor,
 - (vi) Nurse,
 - (vii) Performing arts specialist,
 - (viii) Police officer,

- (ix) Probation Officer, and
- (x) Teacher/Professor (non-law subjects).

DATA PROTOCOL 205. EMPLOYED – NON-PROFESSIONAL POSITION

(a) Requirements

- (1) A graduate should be reported as Employed – Non-Professional Position if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date;
 - (iii) The position does not require any special professional skills or training from the perspective of the employer; and
 - (iv) The position does not come within the definition of a Law School/University Funded position, as set forth in Rule 206.

(b) Presumptions, Considerations, and Exceptions

- (1) Absent contrary information, no additional documentation is required for Employed – Non-Professional Position for a graduate in a position with the following job titles, and those included in Appendix E, because these positions are presumed to meet the requirements of Data Protocol 205(a)(1)(iii):
 - (i) Barista,
 - (ii) Cook,
 - (iii) Hairstylist,
 - (iv) Personal Trainer,
 - (v) Receptionist/Administrative Assistant/Secretary,
 - (vi) Restaurant server, and
 - (vii) Retail sales person.

DATA PROTOCOL 206. EMPLOYED – LAW SCHOOL/UNIVERSITY FUNDED POSITION

(a) Requirements

- (1) A graduate should be reported as Employed in a Law School/University Funded Position if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date; and
 - (iii) The salary the graduate receives is funded:
 - (a) Directly or indirectly by the school or its parent institution;
 - (b) In whole or in part by the school or its parent institution; or
 - (c) Through donations solicited by or on behalf of the school or its parent institution.
- (2) Notwithstanding Data Protocol 301(a) on Long-Term vs. Short-Term, any graduate reported in a Law School/University Funded position can only be classified as long-term if the requirements below are met:

- (i) The law school or university expects the position to last one year or more, and
 - (ii) The graduate is paid at least \$40,000 per year.
- (3) Notwithstanding Data Protocol 206(a)(1), a graduate whose position also satisfies the requirements set forth below is not considered to be in a position that is Employed – Law School/University Funded, and should be reported as Employed under one of the other Employment Status classifications:
- (i) From the perspective of the law school or university, the position is expected to last for a term of one year or more;
 - (ii) The salary the graduate receives is equal to or exceeds \$40,000 per year; and
 - (iii) The position, and its funding, are open to qualified graduates from all ABA-approved law schools.
- (4) Because the school or its parent institution inherently must know if a position is a Law School/University Funded position, or is exempt from the definition, the burden of providing the Key Items of employment information is on the law school and does not depend on the information the graduate may provide.

Example 1 – Data Protocol 206

A position paying \$40,000 a year or more in the office of a university’s general counsel with no expected end date, or a position as a faculty member with no expected end date, are likely examples of positions that would not be considered “Employed – Law School/University Funded” despite the technical status of the graduate on the payroll of the law school or university. This is because these jobs are expected by the school to last a year or longer, they pay \$40,000 or more a year, and they are genuinely open to graduates from any ABA-approved law school. On the other hand, a research role in a law school library that is long-term but that is not open to graduates of other schools would be considered “Employed – Law School/University Funded.”

When reporting a position at the law school or its parent entity in a different category than Law School/University Funded under Data Protocol 206(a)(3), a school must document why the position is not being reported as a Law School/University Funded Position.

Example 2 – Data Protocol 206

A position is funded directly if the graduate is on the payroll of the school or its parent institution. A position is funded indirectly if the school or its parent institution funds another entity in any way and in any amount to pay the salary. A position is also funded indirectly if it is paid through funds solicited from or donated by an outside supporter of the school or its parent institution.

Thus, a position in the law library is funded directly by the school or its parent entity. A position in a legal services office or a law firm that is funded in any amount by the school or its parent entity (either by the school or its parent entity or solicited from or donated by an outside supporter of the school or its parent entity) is funded indirectly by the school or its parent entity.

Example 3 – Data Protocol 206

Examples of when a position is funded through donations solicited by or on behalf of the school or its parent entity include: 1) The law school raises funds to support fellowships for graduates in public service, 2) A law school donor agrees to fund a position for a graduate who found a position that would otherwise be unfunded, usually in public service, or 3) An outside organization raises money to be used to fund fellowships solely for graduates of one particular law school.

DATA PROTOCOL 207. EMPLOYED – UNDETERMINABLE

(a) Requirements

- (1) A graduate should be reported as Employed – Undeterminable if:
 - (i) The graduate receives remuneration for the work performed;
 - (ii) The graduate is Employed as of the Graduate Employment Status Date;
 - (iii) The school cannot obtain sufficient information to categorize the graduate as Employed in any of the Employed categories under Data Protocols 202 through 205; and
 - (iv) The position does not come within the definition of a Law School/University Funded position, as set forth in Data Collection Protocol 206.

Example 1 – Data Protocol 207

This category should rarely be used. The only time it should be used is when the school knows from a reliable source that the graduate is employed but, even after diligent effort, cannot obtain any other information that would help the school place the graduate in one of the other Employed categories. If the position is reported as being Full-Time or Long-Term, a school should make sure to diligently document the basis for those conclusions since it has such limited information about other aspects of the job.

DATA PROTOCOL 208. EMPLOYED – START DATE DEFERRED

(a) Requirements

- (1) A graduate should be reported as Employed – Start Date Deferred if:
 - (i) The graduate has received and accepted an offer of employment by the Graduate Employment Status Date;
 - (ii) The graduate has agreed to a Start Date; and
 - (iii) The Start Date falls after the Graduate Employment Status Date.
- (2) A graduate who is Employed in a position on the Graduate Employment Status Date must be reported as Employed pursuant to the appropriate classification under Data Protocols 202 through 207 and may not be reported as Employed – Start Date Deferred because they have accepted a different future position the school or graduate would prefer to report.
- (3) The only Key Item of employment information required for the Graduate Employment File for any position reported under this category is the graduate's Start Date.

Example 1 – Data Protocol 208

Question: Is a graduate in this category going to be counted as employed when calculating employment percentages?

Answer: The ABA does not calculate employment percentages. From the perspective of the ABA, a graduate in this category is not truly employed as of the Graduate Employment Status Date. As such, a school should not represent graduates whose position is start date deferred as being employed under the standards of the ABA. We realize this can be confusing, given that the word "Employed" is used in the category, but this was done because the prior name for the category

“Unemployed – Start Date Deferred” was not only confusing, but carried the negative stigma associated with the word “Unemployed.”

Example 2 – Data Protocol 208

Question: I have a graduate who has accepted a position in the JAG but does not start their JAG service until after the Graduate Employment Status Date. Until the time their JAG service begins, the graduate has taken a part-time, short-term position as a server in a restaurant. Is the server position, in which the graduate is employed on the Graduate Employment Status Date, the one I must report? Because I can only report one job per graduate in the EQ, can I report the JAG position, under the Employed – Start Date Deferred category, or do I have to report the non-professional job in the restaurant?

Answer: You can only report one position, and in this case, you would have to report the graduate as Employed – Non-Professional. The critical element is that the graduate is, in fact, employed on the Graduate Employment Status Date. Put another way, if the graduate has a job, even if you would rather report a deferred job because it is regarded as a higher quality job for reporting purposes, you must report the job they have on the Graduate Employment Status Date, not the job they will start in the future.

On the other hand, if a graduate is working in more than one job on the Graduate Employment Status Date, a school may choose which position to report. Thus, if a graduate has one job that would be reported as Employed – Bar Passage Required, Part-Time, Short-Term, and another position that would be reported as Employed – Professional Position, Part-Time, Long-Term, it would be up to the school to choose which of the two positions it will report. Importantly, the school must report one, and only one, of the two positions. It may not combine the positions.

DATA PROTOCOL 209. UNEMPLOYED – SEEKING

(a) Requirements

- (1) A graduate should be reported as Unemployed – Seeking if, as of the Graduate Employment Status Date, the graduate:
 - (i) Is Unemployed; and
 - (ii) Is seeking employment and would accept an offer of employment.

(b) Presumptions, Considerations, and Exceptions

- (1) A graduate’s status as Unemployed – Seeking is not affected by the fact that the graduate:
 - (i) Is performing volunteer or other work without remuneration;
 - (ii) Has declined an offer of employment; or
 - (iii) Is studying for the bar exam.
- (2) No documentation is required in the Graduate Employment File when reporting a graduate as Unemployed – Seeking.

Example 1 – Data Protocol 209

Question: How do we classify a graduate who is awaiting bar results and self-reports that they are not seeking work until they obtain bar results because their desired employer will not take applications from and/or hire a graduate who has not yet passed the bar exam?

Answer: In these situations, the graduate would be Unemployed – Seeking. The graduate is seeking a job; they are just unable to apply or be hired until they have their Bar Exam Passage. In this situation, the school would need to override the graduate’s classification. For the requirements to classify a graduate as Unemployed – Not Seeking, see Data Protocol 210.

Example 2 – Data Protocol 209

Question: If a graduate said they were Unemployed – Seeking on their at-graduation survey and has not responded to outreach and has no online presence, how do we classify them? What if the graduate reported that they were Unemployed – Not Seeking?

Answer: While there is no requirement that schools re-survey graduates once they have obtained employment information from them, many schools continue to follow up with graduates who report themselves as Unemployed – Seeking or Unemployed – Not Seeking on an at-graduation survey. Many of these graduates subsequently find jobs and the school obtains updated employment information from them. However, some of these graduates do not respond to outreach and have no online presence.

If you have graduates who classified themselves in an Unemployed category on an at-graduation survey and they do not respond to outreach or lack an online presence, you have two options: 1) You can leave them classified according to their at-graduation surveys or 2) You can re-classify them as Employment Status Unknown. If you do change the graduate-reported classification of Unemployed to Employment Status Unknown, you must document the basis for the change, be it professional judgment or some other basis.

DATA PROTOCOL 210. UNEMPLOYED – NOT SEEKING

(a) Requirements

- (1) A graduate should be reported as Unemployed – Not Seeking if, as of the Graduate Employment Status Date, the graduate:
 - (i) Is Unemployed; and
 - (ii) Is not seeking employment, and would not accept an offer of employment, outside their home.

(b) Presumptions, Considerations, and Exceptions

- (1) A graduate’s status as Unemployed – Not Seeking is not affected by the fact that the graduate:
 - (i) Is not seeking employment for health, family, religious, personal, or other reasons;
 - (ii) Is performing volunteer or other work without remuneration; or
 - (iii) Has declined an offer of employment.
- (2) No documentation is required in the Graduate Employment File when reporting a graduate as Unemployed – Not Seeking.

DATA PROTOCOL 211. EMPLOYMENT STATUS UNKNOWN

(a) Requirements

- (1) A graduate should be reported as Employment Status Unknown if a school lacks information from which it can determine if a graduate is either Employed or Unemployed.

Example 1 – Data Protocol 211

This category should only be used if a school truly has no information about a graduate or the information is unreliable. Thus, this category is not a catchall or alternative to the other types of employment status and should rarely be used.

DATA PROTOCOL 212. PURSUING GRADUATE DEGREE FULL-TIME

(a) Requirements

- (1) A graduate should be reported as Pursuing Graduate Degree Full-Time if:
 - (i) The graduate is pursuing further graduate education as of the Graduate Employment Status Date, in either a degree-granting or non-degree-granting program; and
 - (ii) The graduate is enrolled full-time as determined by the definition of full-time given by the institution and program in which the graduate is enrolled.

TERMS OF EMPLOYMENT: LONG-TERM VS SHORT-TERM AND FULL-TIME VS PART TIME

DATA PROTOCOL 301. LONG-TERM VS SHORT-TERM

- (a) A position is categorized as Long-Term if, from the perspective of the employer, it is expected to last for one year or more from the first date of employment.
 - (1) This determination is based solely on the perspective of the employer, not the graduate.
 - (2) The requirement that the graduate receive licensure to maintain employment, including passing the bar exam, does not affect this determination.
 - (3) Where the employer regards a position as lasting for a term of a year or more, even if technically the position will terminate five or fewer days prior to the completion of a full 365 days, the position should be classified as Long-Term.
 - (4) A graduate who is in a Law School/University Funded position, but satisfies the requirements related to expected duration of one year or more and funding of at least \$40,000 under Protocol 206(a)(2) may be reported as Employed in a Long-Term position.

- (b) A graduate who is Employed in one of the positions below may be assumed to be Employed in a Long-Term position under Data Protocol 301, and in a Full-Time position under Data Protocol 302(b).
 - (1) A graduate whose employer titles them as an “Associate” may be reported as Employed in a Long-Term position if:
 - (i) The employer is a law firm;
 - (ii) The determination of “Associate” is documented by the school in accordance with the Data Protocol; and
 - (iii) The school is unaware of any information that would call this determination into question.

 - (2) A graduate whose employer titles them as a “Law Clerk” may be reported as Employed in a Long-Term position if:
 - (i) The employer is a law firm;
 - (ii) The title is temporary, and graduate will be converted to an “Associate” following admission to practice;
 - (iii) The determination is documented by the school in accordance with the Data Protocol; and
 - (iv) The school is unaware of any information that would call this determination into question.

- (c) A position is categorized as Short-Term if, from the perspective of the employer, it has:
 - (1) A definite term of less than one year from the first date of employment; or
 - (2) An indefinite length, and the employer does not reasonably expect that the position will last for one year or more from the first date of employment.

- (d) A position that may turn into a Long-Term position must be categorized as Short-Term unless and until it, in fact, becomes a Long-Term position on or before the Graduate Employment Status Date.

Example 1 – Data Protocol 301(a)(3)

Question: Can a judicial clerkship lasting only 360 days be classified as Long-Term?

Answer: Yes, it may be classified as Long-Term if it is five or fewer days under the one-year mark. For systems such as 12Twenty that rely on dates to calculate whether a job is Short- or Long-Term, you must add a note to the Graduate Employment File explaining any date adjustments, who made them, and when.

Example 2 – Data Protocol 301

Question: In at-will employment states, no one knows if their position is one year or longer. How do we classify if a position is Long-Term? What factors may be used to determine if an employer expects a position to last one year or more?

Answer: At-will employment is the norm in most locations and for most jobs. It is the perspective of the employer that is the critical factor in determining whether a position is Long- or Short-Term. Thus, the mere fact that the graduate may view the position as short-term is not at issue. It may be helpful, however, to ask the following questions of the graduate:

- 1) Was a specific end date discussed or left open?*
- 2) Was the term of employment discussed or left undefined?*
- 3) Does the graduate feel as though the employer assumes they will stay with the employer for one year or more?*
- 4) Does the graduate believe they were hired, from the employer’s perspective, for a position that would last a year or more?*

Importantly, this determination can be highly fact specific. Even where a job may be one where the graduate is performing projects which have a term of less than one year, such as for a legal services provider, the term of the employment may still be Long-Term if the employer’s intent is to keep the graduate regularly employed across various projects for a term of a year or more. Conversely, if the employer hires a graduate on a project basis but does not, from its perspective, intend or anticipate they will be employed on an ongoing basis for a year or more, then the position would be Short-Term.

Example 3 – Data Protocol 301

Question: Isn’t Full-Time and Long-Term an automatic assumption with judicial clerks?

Answer: No. If you cannot get information on the Full-Time, Long-Term status of the judicial clerkship position from the graduate, you must explain why you are assuming the clerkship is Full-Time and Long-Term.

Example 4 – Data Protocol 301

Question: If a graduate identifies as an “Associate” is there a presumption that the position is Bar Required, Full-Time, and Long-Term and therefore does not require further documentation?

Answer: If a graduate identifies as an “Associate” at a law firm and their employment is properly documented pursuant to Data Protocol 104, the position may be assumed to be Bar Passage Required, Full-Time, and Long-Term when the school is unable to obtain the Full-Time and Long-Term information directly from the graduate. Accordingly, if, based on your professional judgment and knowledge, an employer sometimes hires “associates” on a Short-Term or Part-Time basis, or there are facts you are aware of that indicate the employment may not be Long-Term or Full-Time, you must choose the least favorable category (i.e. Short-Term, Part-Time). This guidance remains the same if the graduate is listed as a “law clerk” by the employer, but whose title will convert to “associate” once they pass the bar. Likewise, the guidance applies in situations where a graduate is not listed as employed on the employer’s website or elsewhere.

The same general guidance applies when determining if the position is a Bar Passage Required position versus a JD Advantage or other kind of position. Thus, if you are unable to determine the response from a reliable source, you may then rely on your professional judgment and knowledge of the employer, as long as this judgment is documented or explained in the Graduate Employment File.

Example 5 – Data Protocol 301

Question: Does the “Associate” assumption of Bar Passage Required, Full-Time and Long-Term extend to graduates who report themselves as “Attorney,” “Staff Attorney,” “Lawyer,” or other similar title?

Answer: No, as to the determination of Long-Term/Short-Term or Full-Time/Part-Time. This assumption only applies to graduates identified as “associates” at law firms, when the school is unable to obtain the Full-Time and Long-Term information directly from the graduate. This was done to alleviate some of the confusion surrounding assumptions about associates at law firms, because the term “associate” traditionally refers to a full-time, open-ended term of employment, whereas “attorney” and “staff attorney” do not have the same historical connotation.

With regard to the separate issue of determining whether the position is Employed – Bar Passage Required, the titles of “attorney” and “staff attorney” do imply that the positions are Bar Passage Required positions, and so they may be treated as such, absent the school being aware of information that would indicate otherwise. As with any professional judgment by the school, absent an exception in the Data Protocol, you should still document the basis for your professional judgement. These titles do not, however, imply that the positions are Full-Time or Long-Term.

Example 6 – Data Protocol 301

Question: Where a graduate has not provided information on whether their employment is Long-Term or Short-Term, Full-Time or Part-Time, but the Career Services Office has found through the employer website, a LinkedIn profile, or other publicly available source that the graduate is listed as an “Associate,” may the graduate be reported as employed in a Bar Passage Required, Full-Time, and Long-Term capacity?

Answer: The listing of a graduate’s title as “Associate” only permits you to report them as Full-Time and Long-Term and Employed – Bar Passage Required if they qualify for the presumptions applicable to each Key Item in question. Thus, if they satisfy each of the following presumptions the answer would be yes:

- 1) Long-Term under Data Protocol 301(b)

- 2) *Full-Time under Data Protocol 302(b); and*
- 3) *Employed – Bar Passage Required under Data Protocol 202.*

Example 7 – Data Protocol 301

Question: Where a graduate has not provided information on whether their employment is Long-Term or Short-Term, Full-Time or Part-Time, but the Career Services Office has found through the employer website, LinkedIn profile, or other publicly available source that the graduate is listed as an “Attorney,” “Staff Attorney,” “Lawyer,” or other similar title, may the graduate be reported as employed in a Bar Passage Required, Full-Time, and Long-Term capacity?

Answer: Graduates listed as “Attorneys,” “Staff Attorneys,” “Lawyers,” and the like do not come within the presumptions of Data Protocols 301(b) and 302(b), which are limited to those graduates who respond that they are an “associate” at a law firm or who are listed as an “associate” by a law firm. Thus, classifying graduates with these other titles requires documenting and providing support for your professional judgment.

The determination that the type of employment is Bar Passage Required is a separate question. See Data Protocol 202.

Example 8 – Data Protocol 301

Question: If a graduate’s job is discovered on LinkedIn or other social media sites that, in a career services professional’s judgment, is Long-Term, and attempts to follow up with the graduate to confirm are unsuccessful, can the position be reported as Long-Term?

Answer: In the absence of definitive information, a school may rely on reasonable judgment to report a job as Long-Term so long as that determination is appropriately documented with an explanation and basis for any assumptions made. Where there is not sufficient information to make a reasonable judgment, the position must be reported as Short-Term.

DATA PROTOCOL 302. FULL-TIME VS. PART-TIME

- (a) A position must be categorized as either:
 - (1) Full-Time, if it is one in which the graduate typically works a minimum of 35 hours per week; or
 - (2) Part-Time, if it is one in which the graduate typically works less than 35 hours per week.
- (b) A graduate who is Employed in one of the positions below may be assumed to be Employed in a Full-Time position under Data Protocol 302, and a Long-Term position under Data Protocol 301(b).
 - (1) A graduate whose employer titles them as an “Associate” may be reported as Employed in a Full-Time position if:
 - (i) The employer is a law firm;
 - (ii) The determination is documented by the school in accordance with the Data Protocol; and
 - (iii) The school is unaware of any information that would call this determination into question.

- (2) A graduate whose employer titles them as a “Law Clerk” may be reported as Employed in a Full-Time position if:
- (i) The employer is a law firm;
 - (ii) The title is temporary, and the graduate will be converted to an “Associate” following admission to practice;
 - (iii) The determination is documented by the school in accordance with the Data Protocol; and
 - (iv) The school is unaware of any information that would call this determination into question.

Example 1 – Data Protocol 302

Question: If a graduate is hired for a Full-Time position but is working Part-Time on family leave as of the Graduate Employment Status Date (and intends to return to Full-Time status after the family leave), can they be classified as Full-Time?

Answer: Yes. Temporary variance in a graduate’s employment status does not change the determination. What matters is the norm. Thus, because the graduate expects they will be back to working more than 35 hours a week shortly, they are still Full-Time.

Example 2 – Data Protocol 302

Question: How do you classify a graduate who holds a 75% contract, but then has a private solo practice firm on the side, which together make the graduate Full-Time?

Answer: The ABA only permits you to report a graduate as Employed in one position under the Data Protocol, thus the graduate in question would be employed in either the contract or the solo position, but not both. Thus, if they typically work a total of 40 hours in a week and are spending 75% of that time in the contract position, then whichever job was reported would be Part-Time, pursuant to the 35-hour per week minimum set forth in Data Protocol 302(a).

Example 3 – Data Protocol 302

Question: Under what circumstances might a contract attorney be considered Full-Time? For instance, a contractor working for four different firms, “staying busy,” etc.?

Answer: If a graduate is working for one employer on a series of projects, and the number of hours they work for that employer typically equals or exceeds 35 hours per week, then the graduate would be reported as Full-Time. However, if the graduate has to combine hours from two or more employers to get to the typical total of 35 hours or more per week, then they are Part-Time. This is consistent with the fact that you can only report one job for a graduate; thus, you are not permitted to combine two or more jobs that are Part-Time to be able to report a graduate as being in a Full-Time position.

In the situation you present, there are at least three possibilities:

- 1) *If the graduate is working for a legal services provider (LSP) that farms out attorneys to various firms on a project basis, and the LSP is the graduate’s employer, then you would combine the work at the four firms to determine the number of hours typically worked in a week. If they meet or exceed 35 hours in a typical week, the graduate should be reported as Full-Time.*

- 2) *If the graduate is employed by each of the firms independently, and no individual contract job typically meets or exceeds 35 hours per week, then the graduate likely has a collection of Part-Time jobs. Report only one of those jobs.*
- 3) *If the graduate has formed a business where the business model is to perform legal contract work for other attorneys, then the graduate might be in a Full-Time position, but to be counted as such they would need to meet both of the following criteria: meet or exceed the 35 hours per week threshold and have truly established the business with the intent to pursue it on a consistent basis.*

Example 4 – Data Protocol 302

Question: When you discover a graduate is employed through their LinkedIn profile or other social media account, is the screenshot sufficient to prove Full-Time employment or do you need to reach out to the graduate?

Answer: Proper documentation is required for each Key Item, including Full-Time or Part-Time status. If there is not sufficient information that is both reliable and documented under the terms of the Data Protocol to support a reasonable judgment for Full-Time status, the least favorable option of Part-Time must be reported. For example, in the case of LinkedIn, so long as the profile says the graduate is Full-Time, that is acceptable, but a dated copy of the profile must be included in the file to document the response. Likewise, the personal knowledge of the CSO with regard to the employer's practices can suffice, but the person with the personal knowledge in the CSO must be identified along with the basis for the decision documented in the Graduate Employment File.

Example 5 – Data Protocol 302

Question: May a graduate who is employed as a solo practitioner be reported as employed Full-Time where the graduate does not actually have enough work to fill 35 hours per week?

Answer: Yes, when it is the graduate's intention to make solo practice their primary source of employment. In the event the graduate responds and states the employment is not Full-Time then it must be reported as Part-Time. However, when the graduate indicates the position is Part-Time, you should ensure that this is a fully-informed response to the question. If, for example, the graduate is not typically performing legal work for 35 hours or more per week but, when they add in their efforts at business development and other administrative activities related to their practice, they are typically meeting or exceeding the 35 hour per week threshold, then they should be listed as Full-Time, even if the graduate objects to the determination. Also see Data Protocol 103(b) for overriding a graduate's response.

EMPLOYMENT TYPE

DATA PROTOCOL 401. LAW FIRMS

- (a) Employment in a Law Firm means the graduate works:
 - (1) With or for a group of attorneys practicing law together, regardless of their specific legal relationship; or
 - (2) As a solo practitioner in the practice of law.
- (b) A firm that performs substantial public interest or low-bono work should still be categorized under Law Firms unless it is organized as a non-profit entity.
- (c) A graduate whose employer meets the terms of Data Protocol 401(a) must be reported as employed in a law firm without regard to:
 - (1) The graduate's job title; or
 - (2) The graduate performing a legal or non-legal role.
- (d) Titles in a Law Firm may include:
 - (1) Administrator,
 - (2) Associate,
 - (3) Attorney,
 - (4) Clerk,
 - (5) Contract attorney hired directly by the law firm,
 - (6) Law clerk,
 - (7) Law firm librarian,
 - (8) Lawyer,
 - (9) Paralegal, or
 - (10) Staff Attorney.
- (e) Law Firm Size
 - (1) Law Firm Size means the total number of attorneys in the entire firm across all offices, regardless of the status of the attorneys in the law firm, and is divided into the following categories:
 - (i) Solo
 - (ii) 2-10
 - (iii) 11-25
 - (iv) 26-50
 - (v) 51-100
 - (vi) 101-250
 - (vii) 251-500
 - (viii) 501+
 - (ix) Unknown Size
 - (2) The Law Firm Size category of Solo is limited to graduates who are not practicing with any other attorneys; thus, if the graduate is a law clerk or associate for a solo practitioner, the firm size should be reported as Law Firm 2-10.

- (f) Requirements for Intent to pursue Solo Practice:
- (1) A graduate may be reported in the Solo category if the graduate:
 - (i) Is practicing law in their own Law Firm that may have other employees, but no other practicing attorneys;
 - (ii) Has established the practice as of the Graduate Employment Status Date;
 - (iii) Intends to pursue that practice on a consistent basis; and
 - (iv) Is licensed to practice law as of the Graduate Employment Status Date.
 - (2) A graduate who is unemployed, but who may be willing to take an occasional client while seeking employment, should be reported as Unemployed – Seeking.

DATA PROTOCOL 402. BUSINESS AND INDUSTRY

- (a) Employment in Business and Industry means:
- (1) The graduate works for an enterprise of any type; and
 - (2) The enterprise does not better fit another category of employment type.
- (b) A graduate who meets the terms of Data Protocol 402(a) must be reported as Employed in Business and Industry, without regard to title, or being employed in a legal or non-legal role.
- (c) Business and industry employers include, but are not limited to:
- (1) Accounting firms
 - (2) Entertainment/sports management companies
 - (3) Insurance companies
 - (4) Investment banking and financial institutions
 - (5) Legal temporary agencies
 - (6) Management consulting firms
 - (7) Non-academic positions at private educational institutions such as
 - (i) University hospitals and
 - (ii) Other similar university-related entities.
 - (8) Political campaigns
 - (9) Political parties
 - (10) Publishing houses
 - (11) Quasi-public/private organizations like FINRA and Sallie Mae
 - (12) Technology/e-commerce companies
 - (13) Trade associations
- (d) Positions held in business and industry include, but are not limited to:
- (1) Business development/sales/marketing
 - (2) Consulting
 - (3) Compliance
 - (4) Human resources
 - (5) In-house counsel

- (6) Management
- (7) Temporary attorney work for an agency that places attorneys
- (8) Temporary law clerk or paralegal work for a placement agency

DATA PROTOCOL 403. GOVERNMENT

- (a) Employment in Government means the graduate works for a government entity.
- (b) A graduate who meets the terms of Data Protocol 403(a) must be reported as Employed in Government, without regard to title, or being employed in a legal or non-legal role.
- (c) Government employers can include federal, state, local, and tribal employers.
- (d) Government positions include, but are not limited to, jobs with:
 - (1) Governmental agencies
 - (2) Military, including JAG
 - (3) Positions within public educational institutions that are outside the academic sphere of the institution, such as university hospitals and other university-related entities
 - (4) Prosecution offices
 - (5) Public defender and appellate defender offices managed by the government
 - (6) Tribal governments

DATA PROTOCOL 404. PUBLIC INTEREST

- (a) Employment in Public Interest means the graduate works for a public interest entity.
- (b) A graduate who meets the terms of Data Protocol 404(a) must be reported as Employed in Public Interest, without regard to title, or being employed in a legal or non-legal role.
- (c) Public interest positions include, but are not limited to, jobs with:
 - (1) Entities funded by the Legal Services Corporation or a similar funding source.
 - (2) Organizations that provide indigent or reduced-fee legal services, such as prisoners' legal services and campus legal services.
 - (3) Public defender and appellate defender offices not managed by, or within, a government entity.
 - (4) Public interest and non-profit employers, including private non-profit advocacy, religious, social service, fund-raising, community resource, or cause-oriented organizations.
 - (5) Labor unions.
 - (6) Non-profit policy analysis and research organizations.

DATA PROTOCOL 405. JUDICIAL CLERKSHIPS

- (a) Employment in a Judicial Clerkship means:
 - (1) The graduate performs the duties of a judicial law clerk for a court or governmental agency; and
 - (2) The graduate is assigned to either a specific judge, or two or more judges, on a court or within a governmental agency.
- (b) A graduate who meets the terms of Data Protocol 405(a) must be reported as Employed in a Judicial Clerkship.

- (c) Judicial Clerkships include clerkships with courts, including administrative law courts, and must fall within one of the following categories:
 - (1) Federal clerkships include clerkships with any federal court or agency.
 - (2) State clerkships include clerkships with any state or local court or agency.
 - (3) Other clerkships include positions with any:
 - (i) Court that is not otherwise properly classified as a federal, state, or local court; and
 - (ii) Judicial clerkships with tribal, foreign, or international courts, regardless of the jurisdiction of the court.

DATA PROTOCOL 406. EDUCATION

- (a) Employment in Education means the graduate works for an educational institution.
- (b) A graduate who meets the terms of Data Protocol 406(a) must be reported as Employed in Education, without regard to title, or being employed in a legal or non-legal role.
- (c) Education positions include:
 - (1) Administrator,
 - (2) Development Officer,
 - (3) Faculty member,
 - (4) Law School/University funded positions such as:
 - (i) Research fellow, and
 - (ii) Clinic staff attorney,
 - (5) Librarian, and
 - (6) Teacher.
- (d) This category does not include graduates who are pursuing a degree or are otherwise enrolled as a student in an academic program at an educational institution.
- (e) Positions outside the academic sphere of an educational institution, such as positions at university hospitals and similar university-related entities, should be reported as employment in:
 - (1) Government if the institution is a public institution; or
 - (2) Business and Industry if the institution is a private institution.

DATA PROTOCOL 407. EMPLOYER TYPE UNKNOWN

- (a) This category is to be used when the school knows that a graduate is employed but does not have sufficient information to determine the employer type.

EMPLOYMENT START DATE

DATA PROTOCOL 501. GRADUATE EMPLOYMENT STATUS DATE

- (a) The Graduate Employment Status Date will be March 15 of the year following the May graduation date of the class (i.e. March 15, 2019 for the Class of 2018).
- (b) If March 15 falls on a weekend, then the Graduate Employment Status Date is the Monday after March 15.

DATA PROTOCOL 502. START DATE MUST BE ON OR BEFORE GRADUATE EMPLOYMENT STATUS DATE

- (a) In order to report a graduate as Employed, the graduate must begin the job being reported on or before the Graduate Employment Status Date.

DATA PROTOCOL 503. GRADUATE MUST BE ACTIVELY WORKING

- (a) To be reported as Employed, a graduate must be actively working in the job being reported as of the Graduate Employment Status Date.
- (b) If an offer of employment has been accepted, but the graduate is not actively working in the job or any other job as of the Graduate Employment Status Date, the graduate should be reported as Employed – Start Date Deferred. See Data Protocol 208.
- (c) If a graduate is employed in a position on the Graduate Employment Status Date, they must be reported as Employed in that position, even if the graduate has also accepted a separate offer of future employment that will begin after the Graduate Employment Status Date. See Example 2 to Data Protocol 208.

DATA PROTOCOL 504. DOCUMENTING EMPLOYMENT START DATE

- (a) Documentation of the exact start date is not required; it is sufficient to provide documentation that the employment began on or before the Graduate Employment Status Date.
- (b) When reporting the start date from a source other than the graduate, a date-stamped copy of the data source(s) must be included in the Graduate Employment File as supporting documentation.

Example 1 – Data Protocol 504(a)

Schools will frequently identify graduate employment information from the mandatory reporting required by the state bar association. In these instances, so long as the documentation from the state bar association is gathered and recorded on or before the Graduate Employment Status Date, it is sufficient to report the start date as the date the information was gathered from the state bar association. This same practice is also acceptable for employment identified through employer website bios or other sources that do not provide an employment start date. However, it is acceptable to use a LinkedIn profile, an email or phone call with the graduate, or a survey dated after the Graduate Employment Status Date, but before the Graduate Data Reporting Deadline, if

the start date is included (i.e. a graduate's LinkedIn profile lists a start date of May 2017 or a graduate reports that their job started on December 8, 2017).

Example 2 – Data Protocol 504(a)

Because Symplicity and 12Twenty surveys require the reporting of a month, day, and year for the employment start date, it is acceptable to default to the first day of the month when your documentation provides only the month and year of the start date. For example, a known start date of September 2018 may be properly reported as September 1, 2018.

Example 3 – Data Protocol 504(b)

If internet research reveals that a graduate was employed on or before the Graduate Employment Status Date, it is appropriate to report the date the data was collected as the graduate's start date. A date-stamped copy of the internet page must be included in the Graduate Employment File as supporting documentation.

EMPLOYER NAME AND CONTACT INFORMATION

DATA PROTOCOL 601. EMPLOYER NAME

- (a) The Graduate Employment File must include the name of the graduate's employer.

Example 1 – Data Protocol 601

Question: If I correct a spelling error that the graduate made in the employer's name, do I need to document this change in the Graduate Employment File?

Answer: No. Documentation would not be required as this is a purely ministerial change.

Example 2 – Data Protocol 601

Question: What if a graduate cannot or will not disclose the name of their employer?

Answer: If the graduate provides all other Key Items of employment information except for the employer name, and states that they cannot or will not disclose the employer's name, then the file is complete. However, you do need to include documentation that the graduate cannot or will not provide this information. Also, many times employer names can be found on LinkedIn or through a Google search of the graduate's name.

Example 3 – Data Protocol 601

Question: A graduate tells me that they are working as a lawyer in Illinois but does not respond to requests for additional information and I cannot find anything about them online. What do I list for the employer name and employer contact information?

Answer: A graduate in this situation should be counted as Employed – Undeterminable as long as you have documentation of this communication with the graduate. Then, make a note that you were unable to obtain any additional information about the graduate's employment after conducting research and include the date you made this note. If you do not know anything about the Full-Time/Part-Time or Long-Term/Short-Term nature of the position, use the least favorable classifications. Also use Employer Type Unknown and note that you were unable to obtain the Employer Name or Contact Information. You do have the state for reporting Employment Location in the EQ.

DATA PROTOCOL 602. EMPLOYER CONTACT INFORMATION

- (a) The Graduate Employment File must include one of the following for the graduate's employer:
- (1) Full mailing address, or
 - (2) Website, or
 - (3) Email address.
- (b) If the graduate is self-employed, a mailing address, website, or email address must still be provided. If the graduate does not have a business mailing address, website, or email address, a personal, non-school one must be provided.
- (1) If the graduate does not provide contact information for their employer, then:

- (i) The CSO may rely on the employer mailing address, website, or email address listed in their school's Symplicity, 12Twenty, or other Career Services Database without additional documentation or notes.
 - (ii) A CSO staff member may look up an employer's mailing address, website, or email address and add that information to the Graduate Employment File on or before the Graduate Data Reporting Deadline. No documentation is required.
- (2) If the graduate is in the JAG Corps and a placement location for them cannot be obtained, use the appropriate JAG Corps (Army, Air Force, Navy, Marines, Coast Guard) headquarters' mailing address, website, or email address for the employer contact information.

Example 1 – Data Protocol 602

Question: Do I need to add a note to the Graduate Employment File if the graduate provides an incomplete mailing address?

Answer: No. Just include the rest of the employer address in the Graduate Employment File by the Graduate Data Reporting Deadline. No documentation is needed.

Protocol for Reviewing Law Graduate Employment Data (Review Protocol)

REVIEWS OF GRADUATE EMPLOYMENT DATA

This section sets out how the ABA will conduct its review of graduate employment data provided to the ABA shortly after a school submits the Employment Questionnaire (EQ). The most significant changes under this revised Review Protocol are the simultaneous elimination of the Random School Review and expansion of the Random Graduate Review. In effect, the ABA will review about the same total number of files, but those records will be pulled in a manner that is both more equitable and more likely to identify schools with persistent reporting issues.

REVIEW PROTOCOL 101. OVERVIEW, TYPES OF REVIEW, OBLIGATION TO ASSIST

- (a) The review of graduate employment information, as set forth in this Review Protocol, is designed to ensure that the graduate employment data schools collect and present to the public regarding employment outcomes is complete, accurate, and not misleading.
- (b) Types of Review and Obligations
 - (1) As set forth below, there are four types of reviews of the Graduate Employment Data reported to the ABA.
 - (i) The ABA Standard 509 Website Compliance Review is an annual, comprehensive review of all schools approved by the ABA, and ensures compliance with the required disclosures of information set forth in Standard 509 of the *ABA Standards and Rules of Procedure for Approval of Law Schools*, as set forth in Review Protocol 102.
 - (ii) A Random Graduate Review is an annual review of 10 or 20 randomly selected graduate employment files from every school, as set forth in Review Protocol 103.
 - (iii) Schools that are not in compliance after a Random Graduate Review are subject to escalating levels of Elevated Review under Review Protocol 104.
 - (iv) A Red Flag Review is limited to schools where an issue or potential issue has been deemed by the ABA to warrant subjecting that school's reported employment data to even greater scrutiny, and for a period of years, as set forth in Review Protocol 105.
 - (c) In connection with any type of review, a school must:
 - (1) Provide all documents and files requested by the ABA in connection with the review; and
 - (2) Cooperate in making all current employees involved in collecting, maintaining, reporting, and publishing reported employment data available for interview by the ABA.
 - (d) In connection with the Random Graduate Review, a school may provide a cover memo explaining its documentation practices but it cannot add/change anything in the Graduate Employment Files.

REVIEW PROTOCOL 102. ABA STANDARD 509 WEBSITE COMPLIANCE REVIEW

- (a) Each year after the posting deadline, the ABA will inspect every school's website at least once to determine whether its Employment Summary Reports for the three most recent years:

- (1) Are posted in the original PDF format;
 - (2) Are consistent with the employment information reported by the school to the ABA in the EQ; and
 - (3) Meet any other requirements of ABA Standard 509.
- (b) A school must provide the URL of the website where the current Employment Summary Report is posted when submitting the EQ.
 - (c) The URL a school provides in the EQ must be the same URL that current and prospective students use to view the school's graduate employment data.
 - (d) A law school that fails to timely post its Employment Summary Report as required by ABA Standard 509 or that publishes data found to be incomplete, inaccurate, or misleading, may be subject to a Red Flag Review for a period of up to three years.

REVIEW PROTOCOL 103. RANDOM GRADUATE REVIEW

(a) Selection process

- (1) An annual Random Graduate Review of all schools will be conducted by the ABA.
 - (i) The Graduate Employment Files subject to the review will be randomly selected via random number generator from all the graduates included in a school's EQ submission for that year's graduating class.
 - (ii) The ABA will identify the selected Graduate Employment Files subject to review by the unique identification numbers assigned by a school to each of its graduates in the school's EQ submission.
- (2) The number of Graduate Employment Files selected for review will be based on the number of graduates a school has in that year's graduating class as set forth below.²
 - (i) For schools with fewer than 230 graduates: 10 files randomly selected
 - (ii) For schools with 230 or more graduates: 20 files randomly selected

(b) Review Process

- (1) The ABA will examine each Graduate Employment File subject to review to determine whether the information in the file:
 - (i) Matches the information submitted by the school to the ABA in the EQ and
 - (ii) Supports and properly documents the responses to the Key Items of employment information according to the Data Protocol.
- (2) The ABA will apply the following standards in examining a Graduate Employment File:
 - (i) The ABA will not engage in direct contact with the graduate as a part of the Random Graduate Review.
 - (ii) A Graduate Employment File containing the required documentation to support the responses to each Key Item of employment information for the graduate will be presumed sufficient absent evidence to the contrary.

² This will ensure that approximately 2,500 Graduate Employment Files are reviewed by the ABA each year, essentially the same number reviewed under the prior version of the Protocol.

- (iii) If a Graduate Employment File does not support a Key Item of employment information, that Graduate Employment File will be deficient.
- (iv) If the percentage of files deemed sufficient pursuant to Review Protocol 103(b)(2)(ii) meets or exceeds 90%, the school will be considered in Compliance.

(c) Review Outcomes

- (1) A school in Compliance after the Random Graduate Review will not be subject to further review and will be notified accordingly.
- (2) A school that is not in Compliance after the Random Graduate Review will be subject to Elevated Review, as set forth in Review Protocol 104 and will be notified accordingly.

REVIEW PROTOCOL 104. ELEVATED REVIEW AFTER RANDOM GRADUATE REVIEW: LEVEL 1, LEVEL 2, AND LEVEL 3

- (a) A school that is not in Compliance after the Random Graduate Review will be subject to escalating levels of Elevated Review, as set forth below, until the school is found to be in Compliance or subject to a Level 3 Review.

(b) Levels of Elevated Review

(1) Level 1 Review

(i) Selection Process

- (a) The ABA will randomly select 50% of a school's Graduate Employment Files via a random number generator, excluding those already reviewed, for Level 1 Review.
- (b) The ABA will identify the selected Graduate Employment Files subject to review by the unique identification number assigned by a school to each of its graduates in the school's EQ submission.

(ii) Review Process

- (a) The ABA will examine each Graduate Employment File subject to Level 1 Review to determine whether the information in the file:
 - (i) Matches the information submitted by the school to the ABA in the EQ; and
 - (ii) Supports and properly documents the responses to the Key Items of employment information according to the Data Protocol.
- (b) The ABA will apply the following standards in assessing a Graduate Employment File subject to a Level 1 Review:
 - (i) A Graduate Employment File containing the required documentation to support the responses to each Key Item of employment information for the graduate will be presumed sufficient absent evidence to the contrary.
 - (ii) If a Graduate Employment File does not support a Key Item of employment information, that Graduate Employment File will be deemed deficient.

(iii) If the percentage of Graduate Employment Files deemed sufficient pursuant to Review Protocol 104(b)(1)(ii)(b)(i) of this Review Protocol meets or exceeds 95%, the school will be considered in Compliance.

(iii) Review Outcomes

- (a) A school in Compliance after a Level 1 Review will not be subject to further review and will be notified accordingly.
- (b) A school that is not in Compliance after a Level 1 Review will be subject to a Level 2 Review and will be notified accordingly.

(2) Level 2 Review

(i) Selection Process

- (a) The ABA will review the remainder of a school's Graduate Employment Files for Level 2 Review.

(ii) Review Process

- (a) The ABA will examine Graduate Employment Files subject to Level 2 Review under the following two-tiered procedure:
 - (i) For all files not examined under the Random Graduate Review or Level 1 Review processes, the ABA will ensure the data:
 - 1. Matches the information submitted by the school to the ABA in the EQ; and
 - 2. Supports and properly documents the responses to the Key Items of employment information according to the Data Protocol.
 - (ii) The ABA will also randomly select 20% of a school's Graduate Employment Files for independent confirmation of the responses through one or more of the following means:
 - 1. Direct contact with the graduate;
 - 2. Review of independent public records; or
 - 3. Contact with the reported employer.
- (b) The ABA will apply the following standards in assessing a Graduate Employment File subject to a Level 2 Review:
 - (i) A Graduate Employment File containing the required documentation to support the responses to each Key Item of employment information for the graduate will be presumed sufficient absent evidence to the contrary.
 - (ii) If a Graduate Employment File does not support a Key Item of employment information, that Graduate Employment File will be deemed deficient.
 - (iii) A school will be considered in compliance if the percentage of Graduate Employment Files deemed sufficient under:
 - 1. Data Protocol 104(b)(2)(ii)(a)(i) of this Protocol meets or exceeds 95%; and
 - 2. Data Protocol 104(b)(2)(ii)(a)(ii) of this Protocol meets or exceeds 95%.

(iii) Review Outcomes

- (a) A school in Compliance after a Level 2 Review will not be subject to further review and will be notified accordingly.
 - (b) A school that is not in Compliance after a Level 2 Review will be subject to a Level 3 Review and will be notified accordingly.
- (3) Level 3 Review
- (i) Selection Process
 - (a) A Level 3 Review requires a review of all a school's Graduate Employment Files.
 - (ii) Review Process
 - (a) Independent Review
 - (i) A law school must timely submit a proposal to the ABA for the Level 3 Review, including the name and credentials of the proposed Independent Auditor.
 - (ii) The proposed review by the Independent Auditor must include:
 1. A review of all Graduate Employment Files to determine whether the data contained in each Graduate Employment File supports the Key Items; and
 2. Verification, through direct contact with the graduate, by independent public record confirmation, or contact with the graduate's employer, of a random sample of at least 25% of the Graduate Employment Files.
 - (iii) The Independent Auditor must be:
 1. An independent third-party organization;
 2. Hired at the sole expense of the school; and
 3. Approved by the ABA prior to commencing its review.
 - (iv) Because each law school varies in the number of Graduate Employment Files to review, the ABA will work individually with a law school selected for a Level 3 Review regarding timing and deadlines.
 - (v) At the conclusion of the Level 3 Review, the Independent Auditor will submit a report of its findings to the ABA.
 - (iii) Review Outcomes
 - (a) The ABA will review the information reported by the Independent Auditor and may request that the Independent Auditor provide additional information.
 - (b) At its discretion, the ABA will decide if a school is in Compliance following a Level 3 Review based on the full record before the ABA.
 - (c) In the ABA's discretion, a school that is required to undergo a Level 3 Review may be subject to a Red Flag Review for the next three years, as set forth in Review Protocol 105, and will be notified accordingly.
 - (d) If the Independent Auditor finds evidence of significant misreporting of graduate employment data, the ABA Managing Director's Office, in consultation with the Council, will determine what changes must be made to a law school's publicly posted Employment Summary Report.

REVIEW PROTOCOL 105. RED FLAG REVIEW

- (a) Red Flag Review applies to unusual or extraordinary situations, including the following:
 - (1) Any school currently under sanction for any violation of ABA Standard 509;
 - (2) Any school identified by the ABA as having significant inconsistencies or anomalies in reporting graduate employment data; and
 - (3) Law schools that are the subject of credible reports of incomplete, inaccurate, or misleading reporting of their graduate employment data.
- (b) Law schools subject to Red Flag Review will be notified that they are subject to such a review and why the review is being conducted.
- (c) In the ABA's sole discretion, a school undergoing a Red Flag Review will be subject to Level 1, Level 2, or Level 3 Reviews, and any other requirements the ABA deems necessary under the Review Protocol.

Appendices

Appendix A. The Key Items of Employment Information for the Graduate Employment Files and The Graduate Employment Information Needed to Complete the Employment Questionnaire (EQ)

The Key Items of Employment Information for the Graduate Employment File

The following are the Key Items of Employment Information that must be included in each individual Graduate Employment File:

Employment Status

- Employed – Bar Passage Required
- Employed – JD Advantage
- Employed – Professional Position
- Employed – Non-Professional Position
- Employed – Law School/University Funded
- Employed – Start Date Deferred
- Employed – Undeterminable
- Pursuing Graduate Degree Full-Time
- Unemployed – Not Seeking
- Unemployed – Seeking
- Employment Status Unknown

Full-Time or Part-Time

Long-Term or Short-Term

Employment Type

- Law Firm (need to include law firm size, but no documentation is required for law firm size and law firm size is not an auditable key item)
- Business & Industry
- Government
- Public Interest
- Judicial Clerkships (Federal, State and Local, or Other)
- Education

- Employer Type Unknown

Employment Start Date

- Must be on/before Graduate Employment Status Date

Employer Name and Contact Information

- Employer Name AND
- Employer Mailing Address OR Website OR Email

Graduate Employment Data Needed to Complete the Employment Questionnaire (EQ)

The EQ asks for Key Items of Employment Information in a specific way so that it can accurately populate a school's Employment Summary Report.

Because of this, the EQ asks for the Key Items in a slightly different way than how they are listed in the document entitled "The Key Items of Employment Information for the Graduate Employment File."

The Key Items will be reported in the EQ as follows:

Employment Status

- Employed – Bar Passage Required
- Employed – JD Advantage
- Employed – Professional Position
- Employed – Non-Professional Position
- Employed – Law School/University Funded
- Employed – Start Date Deferred
- Employed – Undeterminable
- Pursuing Graduate Degree Full-Time
- Unemployed – Not Seeking
- Unemployed – Seeking
- Employment Status Unknown

Full-Time or Part-Time

Long-Term or Short-Term

Employment Type

- Law Firms
 - Solo
 - 2-10
 - 11-25
 - 26-50
 - 51-100
 - 101-250
 - 251-500
 - 501+
 - Unknown Size
- Business & Industry
- Government
- Public Interest
- Judicial Clerkships (Federal, State & Local, Other)
- Education
- Employer Type Unknown

Employment Location

- List State of Employment if located in the United States
- List Country of Employment if located in a Foreign Country
- **Note:** Only list State or Country on the EQ – Do not list employer address, website, or email. Employer address, website, or email is only included in the Graduate Employment File.

Important: You will note that Employment Start Date and Employer Name and Contact Information are not on this list of Key Items for the EQ. This is because Employment Start Date and Employer Name and Contact Information are NOT listed on the Employment Summary Report. Only list Employment Start Date and Employer Name and Contact Information in the Graduate Employment File.

Appendix B. The Employment Questionnaire

In addition to creating Graduate Employment Files, law schools must also enter information into the Employment Questionnaire (EQ), which is found at www.abaquestionnaire.org. A login is required to enter employment data into the Employment Questionnaire. If you do not know your login credentials or need the name of your school's Questionnaire Administrator, please contact Ken Williams at Kenneth.williams@americanbar.org or Andrew Crane at Andrew.crane@americanbar.org.

The Employment Questionnaire itself is a spreadsheet or series of individual, manually-entered graduate profiles containing each graduate's employment data that is submitted to the ABA Quest System on or before the Graduate Data Reporting Deadline.

Schools using systems such as Symplicity or 12Twenty may have these spreadsheets automatically generated by these companies, while some schools fill in the spreadsheet template. The spreadsheet template and instructions can be found after logging into the ABA Quest System.

For schools that manually enter the data for each graduate into the ABA Quest System, the instructions are contained in this Appendix. Additionally, for schools that fill in the spreadsheet template, instructions are also in this Appendix while the spreadsheet template itself is in the ABA Quest System.

For questions about entering or submitting Employment Questionnaire data, please contact Ken Williams (Kenneth.williams@americanbar.org) or Andrew Crane (Andrew.crane@americanbar.org).

Employment Questionnaire: Data Entry Instructions for Profile Questions

Employment Status

1) Is this graduate employed – bar passage required? If no, go to question 2.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1, Law School/University Funded Position; questions 2-10 will be grayed-out.

2) Is this graduate employed – J.D. Advantage? If no, go to question 3.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1, Law School/University Funded Position; questions 1 & 3-10 will be grayed-out.

3) Is this graduate employed – Professional Position? If no, go to question 4.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1, Law School/University Funded Position; questions 1-2 & 4-10 will be grayed-out.

4) Is this graduate employed – Non-Professional? If no, go to question 5.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1, Law School/University Funded Position; questions 1-3 & 5-10 will be grayed-out.

5) Is this graduate employed – job category undeterminable? If no, go to question 6.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1, Law School/University Funded Position; questions 1-4 & 6-10 will be grayed-out.

6) Is this graduate pursuing a graduate degree full time? If no, go to question 7.

If yes, check box; Go to End; remaining questions will be grayed-out.

7) Is this graduate employed – start date deferred? If no, go to question 8.

If yes, check box; Go to End; remaining questions will be grayed-out.

8) Is this graduate unemployed – not seeking? If no, go to question 9.

If yes, check box; Go to End; remaining questions will be grayed-out.

9) Is this graduate unemployed - seeking? If no, go to question 10.

If yes, check box; Go to End; remaining questions will be grayed-out.

10) Is this graduate's employment status unknown?

If yes, check box; remaining questions will be grayed-out; Go to End

Law School/University Funded Position

1) Is this graduate employed in a Law School or University funded position? If no, check box; go to question 1 in Employment Type.

If yes, check box; supply information re: Long/Short Term & Full/Part Time; go to question 1 in Employment Type.

Employment Type

1) Is this graduate employed in a law firm - solo? If no, go to question 2.

If yes, check box; go to question 1 in Employment Location; questions 2-17 will be grayed-out.

2) Is this graduate employed in a law firm – 2-10? If no, go to question 3.

If yes, check box; go to question 1 in Employment Location; questions 1 & 3-17 will be grayed-out.

3) Is this graduate employed in a law firm – 11-25? If no, go to question 4.

If yes, check box; go to question 1 in Employment Location; questions 1, 2 & 4-17 will be grayed-out.

4) Is this graduate employed in a law firm – 26-50? If no, go to question 5.

If yes, check box; go to question 1 in Employment Location; questions 1-3 & 5-17 will be grayed-out.

5) Is this graduate employed in a law firm – 51-100? If no, go to question 6.

If yes, check box; go to question 1 in Employment Location; questions 1-4 & 6-17 will be grayed-out.

6) Is this graduate employed in a law firm – 101-250? If no, go to question 7.

If yes, check box; go to question 1 in Employment Location; questions 1-5 & 7-17 will be grayed-out.

7) Is this graduate employed in a law firm – 251-500? If no, go to question 8.

If yes, check box; go to question 1 in Employment Location; questions 1-6 & 8-17 will be grayed-out.

8) Is this graduate employed in a law firm – 500+? If no, go to question 9.

If yes, check box; go to question 1 in Employment Location; questions 1-7 & 9-17 will be grayed-out.

9) Is this graduate employed in a law firm of unknown size? If no, go to question 10.

If yes, check box; go to question 1 in Employment Location, questions 1-8 & 10-17 will be grayed-out.

10) Is this graduate employed in business and industry? If no, go to question 11.

If yes, check box; go to question 1 in Employment Location; questions 1-9 & 11-17 will be grayed-out.

11) Is this graduate employed in a government position? If no, go to question 12.

If yes, check box; go to question 1 in Employment Location; question 1-10 & 12-17 will be grayed-out.

12) Is this graduate employed in a public interest position? If no, go to question 13.

If yes, check box; go to question 1 in Employment Location; questions 1-11 & 13-17 will be grayed-out.

13) Is this graduate employed in a judicial clerkship - federal? If no, go to question 14.

If yes, check box; go to question 1 in Employment Location; questions 1-12 & 14-17 will be grayed-out.

14) Is this graduate employed in a judicial clerkship – state or local? If no, go to question 15.

If yes, check box; go to question 1 in Employment Location; questions 1-13 & 15-16 will be grayed-out.

15) Is this graduate employed in a judicial clerkship – other? If no, go to question 16.

If yes, check box; go to question 1 in Employment Location; questions 1-14 & 16-17 will be grayed-out.

16) Is this graduate employed in education? If no, go to question 17.

If yes, check box; go to question 1 in Employment Location; questions 1-15 & 17 will be grayed-out.

17) Is this graduate employed with employer type unknown? If no, go to question 1 in Employment Location.

If yes, check box; go to question 1 in Employment Location; questions 1-16 will be grayed-out. (Note: if graduate's Employment Status is "employed – job category undeterminable" and the graduate's Employment Type is also unknown, check yes to this question.)

Employment Location

1) Is this graduate employed in the United States? If no, go to question 2.

If yes, select the state in which this graduate is employed; question 2 will be grayed-out; Go to End

2) Is this graduate employed in a foreign country?

If yes, enter the foreign country in which graduate is employed; question 1 will be grayed-out; Go to End.

Employment Questionnaire: Data Entry Instructions for Template

NOTE: Do not modify top row, add or delete column headings, blank lines, comments, footnotes etc. in the “Template” spreadsheet.

<i>Column-Heading</i>	<i>Parameter</i>
A - GraduateID	Alphanumeric (max. of 10 characters)
B - IsBarPassage	Yes
C - BarPassage	FTLT,FTST,PTLT,PTST
D - IsJDAdvantage	Yes
E - JDAdvantage	FTLT,FTST,PTLT,PTST
F - IsProfessionalPosition	Yes
G - ProfessionalPosition	FTLT,FTST,PTLT,PTST
H - IsNonProfessional	Yes
I - NonProfessional	FTLT,FTST,PTLT,PTST
J - IsJobCategoryUndeterminable	Yes
K - JobCategoryUndeterminable	FTLT,FTST,PTLT,PTST
L - IsPursuingGraduateDegreeFT	Yes
M - IsEmployedStartDateDeferred	Yes
N - IsUnemployedNotSeeking	Yes
O - IsUnemployedSeeking	Yes
P - IsEmploymentStatusUnknown	Yes
Q - IsLawSchoolUniversityEmployed	Yes
R – LawSchoolUniversityEmployed	FTLT,FTST,PTLT,PTST
S - IsEmployedLawFirmSolo	Yes
T - IsEmployedLawFirm2-10	Yes

U - IsEmployedLawFirm11-25	Yes
V - IsEmployedLawFirm26-50	Yes
W - IsEmployedLawFirm51-100	Yes
X - IsEmployedLawFirm101-250	Yes
Y - IsEmployedLawFirm251-500	Yes
Z - IsEmployedLawFirm500plus	Yes
AA - IsEmployedLawFirmUnknownSize	Yes
AB - IsEmployedBusinessIndustry	Yes
AC - IsEmployedGovernmentPosition	Yes
AD - IsEmployedPublicInterestPosition	Yes
AE - IsEmployedJudicialClerkshipFederal	Yes
AF - IsEmployedJudicialClerkshipStateLocal	Yes
AG - IsEmployedJudicialClerkshipOther	Yes
AH - IsEmployedEducation	Yes
AI - IsEmployedEmployerTypeUnknown	Yes
AJ - IsEmployedUnitedStates	Yes
AK - EmployedUnitedStates (Provide the name of the state in which the graduate is employed.)	Alphanumeric (max. of 100 characters)
AL - IsEmployedForeignCountry	Yes
AM - ForeignCountry (Provide the name of the country in which the graduate is employed.)	Alphanumeric (max. of 100 characters)

Appendix C: Generally Reliable Sources of Information

This page is intentionally left blank. Information on sources will be added here on an as-needed basis.

Appendix D: Dean's Signature Page

Note: This document is available to print and sign at https://www.americanbar.org/groups/legal_education/resources/questionnaire.html under "Employment Questionnaire" or within the ABA Quest system.

DEAN'S AND CAREER SERVICES DIRECTOR'S CERTIFICATION

EMPLOYMENT QUESTIONNAIRE

The within Employment Questionnaire is submitted pursuant to Standard 104 of the American Bar Association Standards for Approval of Law Schools.

We have reviewed the Employment Questionnaire and know its contents. We have made an appropriate and thorough inquiry so as to satisfy ourselves that the information contained in this Employment Questionnaire has been properly collected and is fully and accurately reported. We represent that this Employment Questionnaire is true, accurate, complete and not misleading.

We understand that the provision of false, inaccurate, incomplete or misleading information in this Employment Questionnaire could subject the law school to the imposition of sanctions under Rule 15 of the Rules of Procedure for Approval of Law Schools.

[Dean's name]

[Dean's signature]

[Career Services Director's name]

[Career Services Director's signature]

[School Name]

Appendix E: Presumptions for Employment Status

Absent contrary information, no additional documentation for Employment Status is required to classify a graduate in a position with one of the following job titles. This is because these positions are presumed to meet the requirements for that Employment Status category.

A CSO staff member can only change the job classification to a higher or lower category of Employment Status if additional documentation or explanation is provided in the Graduate Employment File. For example, this may include information about the graduate's job duties or a job posting for the position.

Employed – Bar Passage Required:

Associate/Associate Attorney at a law firm
Attorney
General or Associate General Counsel
In-House Counsel
Judge Advocate General
Judicial Law Clerk (all levels)
Lawyer
Prosecutor/State's Attorney/District Attorney
Public Defender
Solo Practitioner
Staff Attorney

Employed – JD Advantage:

Accountant
Alternative Dispute Resolution Specialist
Compliance Manager/Specialist
Contracts Administrator
FBI Agent
Human Resources Manager
Investment Banking
Journalists covering legal, regulatory, or legislative matters
Landman
Law Clerk
Law Firm Professional Development
Law School Career Services or Admissions
Law Teaching (undergraduate or law school level)
Medical Professionals working in litigation, insurance, risk management, or similar settings
Paralegal/Legal Assistant
Patent Agent
Police Captain
Regulatory Analyst

Tax Associate at Accounting or Consulting Firm

Employed – Professional Position:

Architect

Bailiff

Business Manager

Dentist

Doctor

Engineer

Financial Planner/Advisor

Legal Secretary

Nurse

Performing Arts Specialist

Police Officer

Probation Officer

Teacher/Professor (non-law subjects)

Employed – Non-Professional Position:

Barista

Bartender

Cashier

Cook

Hairstylist

Personal Trainer

Receptionist/Administrative Assistant/Secretary

Restaurant Server

Retail Sales Person

Truck Driver