

American Bar Association

Section of Legal Education and Admissions to the Bar

Protocol for Reviewing Law Graduate Employment Data,  
and Statement of Procedures for Collecting, Maintaining,  
and Reporting Law Graduate Employment Data – Final

June 9, 2014



### Introduction

The American Bar Association Standards for Approval of Law Schools require schools to collect and report data on law graduate employment outcomes, and to do so in a manner that is complete, accurate, and not misleading. The ABA Section of Legal Education and Admissions to the Bar (ABA), the law schools that it accredits, and their career services professionals share a common interest in promoting confidence in the integrity of reported employment data.

This Protocol for Reviewing Law Graduate Employment Data (“Protocol”) and accompanying Statement of Procedures for Collecting, Maintaining, and Reporting Law Graduate Employment Data (“Statement”) are intended to promote confidence among the ABA, law schools, law school applicants, and other interested parties that law graduate employment information is complete, accurate, and not misleading, as required by Standard 509 of the ABA Standards for Approval of Law Schools. The Protocol, in Part I below, outlines the processes for reviewing reported data to determine whether it is complete, accurate, and not misleading. The purpose of the Protocol is to identify any systemic misreporting issues, not to penalize schools for good faith reporting or nonmaterial errors in collecting, maintaining, and reporting employment data. When the ABA reviews schools’ reported employment data, it will respect reasonable professional judgments regarding the reporting of graduate employment data when appropriately documented. The Statement, in Part II below, describes requirements and guidelines designed to ensure that schools maintain proper supporting documentation for their reported graduate employment outcomes.

The information that a school is required to report to the ABA under this Protocol and Statement is pursuant to the ABA’s accrediting function to ascertain compliance with the ABA Standards 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.

The tasks of collecting and reporting employment information are considerably challenging because law schools are largely dependent upon self-reported information from students and 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 and to the legal profession as a whole. Graduates should promptly, accurately, and completely respond to their law schools’ requests for employment

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information and should provide updated contact information so that their schools can collect, update, or confirm employment data throughout the employment data reporting period.

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 this Protocol and Statement 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 their reported data. It is up to each school to determine the manner and frequency of contacting graduates in order to obtain the information. Schools act at their own risk when reporting data that have 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 data are accurate, that adequate resources are allocated to the career service office, and that the processes employed by the school in the collection, maintaining, and reporting of employment data comply with this Protocol and Statement.

### **I. Protocol for Reviewing Law Graduate Employment Data**

This Protocol addresses the review of law graduate employment data reported to the ABA or presented to the public. There will be four types of reviews:

- (A) Standard 509 Website Compliance Review: All law schools accredited by the ABA will be subject to this type of review.
- (B) Random School Review: At least 10 law schools each year will be selected at random for this type of review.
- (C) Random Graduate Review: Random reviews will be conducted on a statistically sound sample of graduates drawn from the population of all graduates of ABA accredited law schools.
- (D) "Red Flag" Review: Red Flag Reviews will be conducted of schools as provided in paragraph D below.

#### **A. Standard 509 Website Compliance Review**

Each year, the ABA will conduct a review of the employment data posted by each ABA accredited law school on its website pursuant to Standard 509. Each year after the posting deadline, the ABA will inspect each law school's website at least once to determine whether its Employment Summary Report is posted as required by Standard 509, and that the posted data are consistent with the employment information reported by the law school to the ABA.

Contemporaneously with the deadline for posting employment data on its website, each law school must provide the ABA with the URL of its home page and the URLs of the web pages containing its

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employment data. These URLs must be the same URLs that students and prospective students use to view the law school's employment data.

Law schools that fail to timely post employment data as required by Standard 509, or that publish data found to be incomplete, inaccurate, or misleading, may be subject to a Red Flag Review, defined below in paragraph D, for a period of up to three years.

### **B. Random School Review**

Each year, the ABA will select at least 10 law schools for the Random School Review. The schools subject to the Random School Review will be randomly selected from the list of all ABA accredited schools. This Review will begin with a Level 1 Review and, if warranted, proceed to a Level 2 and then to a Level 3 Review.

Level 1: A Level 1 Review consists solely of a review of all Graduate Employment Files.<sup>1</sup> Graduate Employment Files contain the supporting documentation for a school's reported employment outcomes. Documentation included in the Files will be presumed to be complete, accurate, and not misleading in the absence of credible evidence to the contrary. The Graduate Employment Files must be found to support the employment information reported to the ABA. If more than five percent (5%) of the Files are found to be deficient, the ABA will then proceed to a Level 2 Review. A File is deficient if it lacks documentation to support a key item of reported employment data, or if there is credible evidence that a key item of reported employment data is incomplete, inaccurate, or misleading.

Key items of reported employment data are:

- (1) Employment Status
- (2) Employment Category
- (3) Full-Time/Part-Time
- (4) Long-Term/Short-Term
- (5) Law School/University Funded
- (6) Employment Type<sup>2</sup>
- (7) Employment Start Date – before employment status determination date
- (8) Employer Name and Street Address, Email Address or Website

Level 2: A Level 2 Review will entail verification, through direct contact with the graduate, or by independent public record confirmation or contact with the employer, of the data reported for a random sample of at least twenty percent (20%) of the graduating class. Each key item of reported employment outcomes data must be independently confirmed.

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<sup>1</sup> Graduate Employment Files are described in detail in Part II.D below.

<sup>2</sup> Discrepancies in the number of attorneys in a firm will not be considered errors.

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If the reported employment data for five percent (5%) or more, or three (3) or more, of the graduates in this group, whichever is greater, is found to be incomplete, inaccurate, or misleading, the school will then be subject to the Level 3 Review.

Level 3: A Level 3 Review requires that a school hire, at its own expense, an independent third-party firm to independently review and confirm all of the school's reported employment data. The third-party reviewer must be approved by the ABA before commencing its review. At the conclusion of its review, the firm must submit a report of its findings to the ABA. At a minimum, the third-party review must include:

- a. A Level 1 Review of all Graduate Employment Files to determine whether the Files support the school's reported employment outcomes; and
- b. Verification, through direct contact with the graduate or by independent public record confirmation (e.g., employer websites, licensing authorities, subscription databases, social media) or contact with the employer, of a random sample of at least twenty-five percent (25%) of the graduates from the class. All key items of reported employment data as defined above must be independently confirmed.

In the discretion of the ABA, schools that are required to undergo a Level 3 Review may be subject to a Red Flag Review (described below) for the next three years.

### **C. Random Graduate Review**

The Random Graduate Review selects a statistically sound random sample of individual graduates from the population of all graduates of all ABA accredited law schools. The sample will be selected from the student identification numbers provided by law schools in their employment data submissions to the ABA. The ABA will examine the Graduate Employment Files (discussed in Part II.D below) relating to these graduates to determine whether they support the employment data that the schools reported to the ABA. There will be no direct contact with graduates as part of this review. The ABA will rely upon the Graduate Employment Files provided by the law schools and on publicly available information to confirm reported graduate employment outcomes. If a Graduate Employment File supports the key items of employment data reported for the graduate, that data will be presumed to be accurate in the absence of credible evidence that it is not. If a Graduate Employment File does not support a key item of reported data, it will be deemed deficient.

This review entails a high likelihood that every ABA accredited law school will have some portion of its employment outcomes data examined each year. Once the pool of graduates for review is identified, the ABA will notify the law schools from which they graduated and request the Graduate Employment Files associated with those graduates.

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If any of the Graduate Employment Files submitted by a law school is deficient, there will be a Level 1 Review of the school, and, if warranted, a Level 2 and a Level 3 Review, as described above. A files will be deemed deficient if they do not support the key items of reported employment data for the graduate.

### **D. Red Flag Review**

Each year, the ABA will conduct a Red Flag Review of:

- (1) all law schools currently under sanction for any violation of Standard 509;
- (2) law schools identified by the ABA based on significant inconsistencies or anomalies in their data reporting; and
- (3) law schools that are the subject of credible reports of incomplete, inaccurate, or misleading reporting.

In the ABA's discretion and depending on the circumstances, law schools undergoing a Red Flag Review will be subject to Level 1, Level 2, and Level 3 Review as described above. Law schools subject to Red Flag Reviews will be advised that they are subject to such a review and of the reason the review is being conducted.

In connection with any of the above reviews, law schools must cooperate in making available for interview by the ABA all current employees involved in collecting, maintaining, reporting, and publishing graduate employment data. In addition, law schools must provide all documents and files that the ABA requests in connection with the particular review. The reviews will take account of the facts that: it will not be possible to contact some graduates; a graduate might intentionally report false information; and a graduate's employment status might have changed since the time data were collected but the school did not know or have reason to know of the change.

## **II. Statement of Procedures for Collecting, Maintaining and Reporting Law Graduate Employment Data**

This Statement 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 outcomes data, law schools must maintain accurate, contemporaneous, and verifiable documentation that supports them.

### **A. Documentation**

The most reliable source of information regarding graduate employment outcomes data is typically graduates themselves, although the school often may be better situated to categorize the data (e.g., report whether the position is a bar passage required position or a J.D. preferred position). Therefore, the best support for a reported employment outcome usually is a record of information obtained directly from the graduate. Reported employment outcomes data that is supported by documentation showing it was provided by the graduate will be presumed to be accurate. In the event that a graduate

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provides information that the school believes is incomplete, inaccurate, or misleading, such as a misreporting of employment category, the school shall disregard the graduate-provided information and report the correct data. The school must maintain adequate documentation supporting any change from graduate-provided information.

Graduate employment surveys<sup>3</sup> completed by graduates or through other direct communications by the law school with graduates will be considered the most reliable source of reported employment data. This includes data directly input by graduates (who have logged into secure accounts) into an online tracking system such as Symplicity. Information contained in an online tracking system must include the name of the person entering the information (the graduate or law school employee name) as well as the date the information was entered by the graduate or obtained by the employee. If the information is input by a law school employee, the employee must also record the type of communication (email, phone call, in person conversation).

If a graduate cannot be located, or refuses to provide the requested information, the law school may also rely on information obtained directly from employers or publicly available information concerning the graduate's employment. Publicly available information includes employer websites, social media sites such as LinkedIn, and information from state licensing authorities.

To the extent that a law school obtains information by telephone or other oral communications, such information must be committed to writing as soon as it is obtained and before the reporting deadline; otherwise it will not be considered as support for a reported outcome. Documentation of oral communications must include the date of the communication, the parties involved in the communication, and all relevant details relied upon in reporting the data.

Law schools must maintain all records relating to their reporting of employment outcomes for at least four years.

### **B. Graduate Employment Data Collection**

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 outcomes data as of that time. In all events, schools must request post-graduation contact information from students before they graduate and maintain a record of such information. Law schools should seek to maintain contact with each graduate until the Employment Questionnaire reporting deadline through the use of surveys, emails, and other methods until the graduate has provided all employment data needed to complete the ABA Employment Questionnaire. Schools may stop contacting graduates when (a) a graduate indicates that he or she no

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<sup>3</sup> "Employment survey" refers to the survey that a school uses to collect employment information from graduating students and graduates. The survey must at a minimum include all of the questions in the ABA Employment Questionnaire. Almost all schools utilize the NALP Employment Report and Salary Survey, which does include all of the ABA Employment Questionnaire questions.

longer wishes to be contacted; (2) a graduate states the he or she will not provide requested data; or (3) accurate employment data can be obtained through other reliable sources such as employers or state licensing authorities, employer websites, or social media. Law schools may use their best judgment as to the method and number of times they contact their graduates. Law schools must update the collected data if they later learn that any aspect of it is no longer accurate. The reported data must accurately represent the most current known employment information regarding a graduate as of the employment status determination date.

To aid this process, law schools should consider extending school-issued email accounts after graduation through the reporting deadline to help ensure a direct line of communication with graduates.

- 1. Directly Completed Employment Surveys:** Direct graduate responses to the employment survey are the best supporting documentation for employment data reported by a school. Law schools should make all reasonable efforts to contact students before graduation and on multiple occasions thereafter to encourage graduates to directly complete and as necessary and appropriate update their employment surveys. Some law schools require that students complete a survey in order to receive a diploma. This Statement does not require or recommend this practice, but the ABA notes that it is an acceptable method to obtain student responses to the employment survey. After students graduate, some law schools provide a nominal incentive to encourage graduates to complete the survey, such as a small dollar value gift card. This type of incentive program is not required or recommended by this Statement, but the ABA notes it also is an acceptable practice.
- 2. Indirectly Completed Employment Surveys:** Some graduates do not complete the employment survey in whole or in part. When the school does not have complete Employment Questionnaire information for a graduate on the key items of employment data enumerated in section I.B above, it should continue to reach out to the graduate throughout the reporting period in order to obtain the missing information. This outreach can be by any method, including electronic survey, hard copy mail, email, or telephone. As a result of this outreach, it is possible that the law school may complete the survey information on behalf of the graduate. If the survey is completed in whole or in part by anyone other than the graduate, the law school must document who supplemented, updated, or completed the survey, the date or dates on which it was supplemented, updated, or completed, and how the school obtained the relevant information. If the law school obtained the information through oral communication with the graduate, the law school must also document the details of that communication. It is not permissible for law schools to rely on information received from individuals other than the graduate, such as communications with other graduates, in completing the survey or reporting employment outcomes. However, schools may rely on communications with a graduate's employer or family member, provided that the communications are properly documented. Law schools may rely on communications between a graduate and an employee of the law school



outside the career services office, provided that the communications are properly documented by the law school employee providing the data.

### **C. Employment Information from Sources Other than the Graduate**

If the school cannot obtain information from a graduate, it may gather information from employers and reliable public records such as employer websites, social media sites such as LinkedIn, state licensing agencies, and subscription databases. In addition, self-reported data found in social media sites such as LinkedIn may also be reliable. A copy of all third-party data that are relied upon for any of the employment data reported to the ABA must be maintained in the Graduate Employment File of the graduate to whom it relates.

### **D. Graduate Employment Files**

All information used to support an individual graduate's reported employment information must be maintained, preferably in electronic form, in a file associated with that graduate. Documentation expected to be found in a Graduate Employment File includes, but is not limited to: any response to the employment survey; copies of any written communications containing reported information; copies of information from third-party sources such as law firm websites and social media sites; and contemporaneous notes of any oral communications containing reported employment information.

Law schools must maintain an electronic database that contains all the data reported to the ABA for each graduate. If the school does not use an electronic employment tracking system, the law school must create its own database, such as an Excel spreadsheet, to maintain each graduate's employment data. Schools must make this database available to the ABA upon request, and must provide the information necessary to allow the ABA to link individual graduates with their reported employment information and graduate identification numbers.

The database must include the following information obtained with respect to each graduate (column headers are in bold, answers and sub-answers are found below the headers):

- **Employment Status**
  - Employed
  - Pursuing Graduate Degree Full-Time
  - Unemployed
  - Unknown
- **Employment Category**
  - Employed
    - Bar Passage Required
    - JD Advantage
    - Professional Position
    - Non-Professional Position
    - Job Category Undeterminable

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- Unemployed
  - Start Date Deferred
  - Not Seeking
  - Seeking
- **Full-Time/Part-Time**
- **Long-Term/Short-Term**
- **Law School/University Funded**
  - Yes
  - No
- **Employment Type**
  - Law Firm
    - Solo
    - 2-10
    - 11-25
    - 26-50
    - 51-100
    - 101-250
    - 251-500
    - 501+
    - Unknown
  - Business & Industry
  - Government (Includes Public Defender)
  - Public Interest
  - Judicial Clerkships
    - Federal
    - State & Local
    - Other
  - Education
  - Employer Type Unknown
- **Employment Start Date**
- **Employer Name and Address**
- **Employment Location**
  - United States
    - City
    - State
  - Foreign Country
    - Country

In the event of an audit, the school must submit all information requested by the ABA in electronic form.

### **E. Posting of Employment Data on Law School's Website**

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Beginning in 2015, the ABA will require law schools to publicly disclose graduate employment outcomes data on their websites each year by April 15. By the posting deadline, all law schools must submit to the ABA an electronic letter that includes the URLs for school's home page as well as the pages where these data are posted on the law school's website. If the data are not posted by the deadline, the law school shall include in its letter a statement as to why it is out of compliance with Standard 509 and state the date by which it projects it will achieve compliance. When the data are subsequently posted, the law school must notify the Section and provide the URL for each page where the data are posted.

### III. Timetable for Section Graduate Employment Data Reviews

The following timetable shall apply to the Protocol and Statement set forth above:

Action	Deadline
Employment Status Determination Date	March 15 <sup>th</sup>
Employment Outcomes Reporting Submissions Due to ABA	April 7 <sup>th</sup>
Law schools to send links to ABA of URLs of website pages with Employment Summary Reports	April 15 <sup>th</sup>
Law schools subject to Red Flag Review identified by ABA	May 15 <sup>th</sup>
ABA to notify law schools of results of Website Compliance Review	May 15 <sup>th</sup>
Law schools subject to Random School Review identified by ABA	May 15 <sup>th</sup>
Graduates to be included in Random Graduate Review Identified by ABA	May 15 <sup>th</sup>
Graduate Employment Files due to Section for Random School Review	May 30 <sup>th</sup>
Graduate Employment Files due to ABA for Random Graduate Review	May 30 <sup>th</sup>
ABA to notify law schools of results of Random Graduate Review	August 15 <sup>th</sup>
ABA to notify law schools of results of Random School Review	August 15 <sup>th</sup>
Additional reviews pursuant to Red Flag Review protocols and outside consultant reports due	September 30 <sup>th</sup>

### IV. Evaluation

An evaluation of the efficacy of this Protocol and Statement will be undertaken by the Data Policy and Collection Committee for the Council no later than three years after its adoption.