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The Opinion Pages

Too Many Law Students, Too Few Legal Jobs

By STEVEN J. HARPER AUG. 25, 2015

Wilmette, Ill. — TEN months after graduation, only 60 percent of the law school class of 2014 had found full-time long-term jobs that required them to pass the bar exam.

Even that improvement over the class of 2013 (a 57 percent employment rate) came with three asterisks: Last year, the American Bar Association changed the job-reporting rules to give law schools an extra month for the class of 2014 to find jobs; graduates employed in law-school-funded positions count in the employment rate; and the number of jobs that require bar passage fell from 2013 to 2014.

Amazingly (and perversely), law schools have been able to continue to raise tuition while producing nearly twice as many graduates as the job market has been able to absorb. How is this possible? Why hasn't the market corrected itself? The answer is that, for a given school, the availability of federal loans for law students has no connection to their poor post-graduation employment outcomes.

Students now amass law school loans averaging $127,000 for private schools and $88,000 for public ones. Since 2006 alone, law student debt has surged at inflation-adjusted rates of 25 percent for private schools and 34 percent for public schools.

In May 2014, the A.B.A. created a task force to tackle this problem. According to its recent report, 25 percent of law schools obtain at least 88 percent of their total revenues from tuition. The average for all law schools is 69 percent. So law schools have a powerful incentive to maintain or increase enrollment, even if the employment outcomes are dismal for their graduates, especially at marginal schools.

The underlying difficulty is that once students pay their tuition bills, law schools have no responsibility for the debt their students have taken on. In other words, law schools whose graduates have the greatest difficulty finding jobs that require bar passage are operating without financial accountability and free of the constraints that characterize a functioning market. The current subsidy system is keeping some schools in business. But the long-term price for students and taxpayers is steep and increasing.

Paradoxically, the task force chairman was Dennis W. Archer, the former mayor of Detroit, who is also head of the national policy board of Infilaw, a private equity-owned consortium of three for-profit law schools — Arizona Summit, Charlotte and Florida Coastal. These schools are examples of the larger problem. Most Infilaw 2014 graduates didn't find jobs that required their expensive degrees. Excluding positions funded by the law school, only 39.9 percent of Arizona Summit graduates found full-time jobs lasting at least a year and requiring bar passage. Florida Coastal's rate was 34.5 percent. At Charlotte, it was 34.1 percent.

Yet as the demand for new lawyers continued to languish from 2011 to 2014, the size of Infilaw's graduating classes almost doubled, to 1,223. These schools are also among the leaders in creating law student debt. Arizona Summit's 2014 graduates had average law school debt of $187,792. At Florida Coastal, the average was $162,785. Charlotte's average was $140,528.

The task force report said that some witnesses proposed "capping law student loans, requiring law schools to have 'skin in the game' by being responsible for loan repayment in certain situations, and even scrapping the current federal student loan program altogether." It characterized proponents of such measures as hoping "that a kind of fiscal tough love will force schools to become more financially responsible and reduce cost."

But the task force argued that "there seems to be little need to impose the kind of tough love some want because the market is already doing it."

Except that the market is doing no such thing. While enrollment did decline to about 38,000 last year from 52,000 in 2010, it has not been falling at the pace necessary to reach equilibrium in a stagnant legal job market. Too many incoming law school students still believe they will be among the lucky few who get decent jobs.

The task force, having dodged the issues that should have been the focus of its work, offered four suggestions: law schools should offer students better debt counseling; the Department of Education should develop “plain English” disclosure information about student loans; the A.B.A. should collect and disseminate information about how law schools spend their money; and the A.B.A. should encourage law schools to experiment on curriculums and programs.

None of those will make a difference. The crisis in legal education is real. Magical thinking and superficial rhetoric about declining enrollments, better debt counseling for students, and law schools’ experimenting with curriculum changes will not create more jobs.

The A.B.A. should treat the challenge seriously and begin to address it with serious solutions. So far, that has not happened. In fact, earlier this month, the A.B.A. House of Delegates missed an opportunity to address this issue by giving its rubber stamp of approval to the task force report.

Until student loans bear a rational relationship to individual law school outcomes, law schools will exploit their lack of accountability, the legal education market will remain dysfunctional, and equilibrium between supply and demand will remain elusive.

The A.B.A. calls itself “the national voice of the legal profession.” When it comes to the profession’s most urgent problem, it’s long past time to speak up.

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