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Conditional Scholarships Reprise – Of Sticks and Carrots and Asking Questions

By [Jerry Organ](#)

A few years ago the Council for the Section of Legal Education and Admissions to the Bar mandated greater transparency regarding conditional scholarships, requiring law schools that offer conditional scholarships to publicize on their webpages, and to applicants receiving conditional scholarship offers, the number of conditional scholarships awarded to students and the number that had been reduced or eliminated over each of the prior three academic years.

Applicants previously had not been aware of how many students were getting conditional scholarships and didn't know how likely they were to keep the conditional scholarships given the law school's grading curve. They were generally unduly optimistic about their likelihood of retaining a scholarship. The mandated disclosure was designed to ameliorate this information asymmetry and optimism bias.

I have written about conditional scholarships on several occasions over the last several years, initially noting the need for [greater transparency](#) and then [analyzing the data](#) on conditional scholarships once its publication was mandated. I posted the most recent summary in [December 2015](#), covering the 2014-15 academic year and comparing it with the 2011-12 academic year. Notably, over the last few years, while more than two dozen law schools have shifted away from using conditional scholarships, the percentage of first-year students with conditional scholarships remained at roughly 27%, although slightly fewer first-year students saw their scholarships reduced or eliminated (7.8% down from 9.4%).

With tuition deposits due in the next several weeks, prospective law students likely are comparing the varied opportunities they may have in terms of law schools and scholarship offers. I write at this time to highlight the need for applicants receiving conditional scholarship offers to ask questions of admissions officials regarding conditional scholarships at their law schools, both with respect to traditional conditional scholarships and with respect to a new type of conditional scholarship that apparently is being offered by at least one law school and perhaps others. Prospective students need to be proactive in combatting their own propensity for optimism bias. Pre-law advisors need to help students be more proactive in combatting their propensity for optimism bias.

The Need to Ask Questions with Respect to Traditional Conditional Scholarships that Function as a Stick

Traditional conditional scholarships operate as a “stick.” If a student doesn't maintain a defined GPA or class rank, the student's scholarship is reduced or eliminated.

Law schools are required to publish, and to provide to conditional scholarship recipients, the number of conditional scholarship recipients and the number whose scholarships were reduced or eliminated in each of the prior three years. This is helpful generally, but it doesn't necessarily help specific applicants all that much.

For example, assume a law school's published data indicates that 80 students received conditional scholarships in each of the prior three years and that 20 students saw their

scholarships reduced or eliminated each year. At first blush, this makes it look like the average conditional scholarship recipient has a 75% (60/80) chance of retaining her scholarship. But who is the average conditional scholarship recipient? Assuming all students had to meet the same “condition” – perhaps maintain a first-year GPA of 3.0 -- it is likely that conditional scholarship recipients in the top quarter of the LSAT/GPA distribution for entering students at the law school had perhaps a 90-95% likelihood of retaining their scholarship, while conditional scholarship recipients near the middle or below the middle of the LSAT/GPA distribution for entering students at the law school had perhaps a 50-60% likelihood of retaining their scholarship.

Recognizing this likely disparity, conditional scholarship recipients should be asking the admissions officials at the law schools from which they are receiving conditional scholarship offers what additional information the admissions officials can provide about the extent to which a student with a comparable profile and comparable condition was likely to see his conditional scholarship reduced or eliminated. Were those at the top end of the LSAT/GPA distribution more likely to retain their conditional scholarship? Were those further down the LSAT/GPA distribution less likely to retain their conditional scholarships? How did the nature of the condition impact the likelihood that a student with a given profile retained her scholarship?

Law schools should have this information available and should be willing to provide answers to these questions. Prospective students need answers to these questions to be best positioned to calculate the expected value of a conditional scholarship over three years so that the student can make meaningful cost-comparisons across law schools.

The Need to Ask Questions with Respect to New Conditional Scholarships that Function as a Stick and a Carrot

At least one law school, and possibly others, have what appears to be a new type of “conditional” scholarship, which can best be described as both a “stick” and a “carrot.” In addition to reducing or eliminating a student’s conditional scholarship if the student fails to maintain a given GPA or class rank, the “carrot” approach to the conditional scholarship offers students **AN INCREASED SCHOLARSHIP** if the student obtains a given GPA or class rank.

For example, assume a given law school has the same published information as in the previous example – 80 students received conditional scholarships and 20 students had their scholarships reduced or eliminated.

An applicant receives a conditional scholarship for 50% tuition and is informed that the scholarship will be eliminated if she fails to maintain a cumulative GPA of 2.5 at the end of the first year. But she also is informed that the scholarship will increase to 75% if she obtains a GPA of 3.5 and to 100% if she obtains a GPA of 3.7.

This student needs to ask several questions of the admissions officials at the law school. First, she needs to ask whether, given her LSAT/GPA profile, and her renewal threshold (2.5 GPA), she has the average likelihood of maintaining her scholarship (75%) or perhaps a higher or lower likelihood of maintaining her scholarship. (If the school offers 100% scholarships with a renewal condition of 3.5 and a 75% scholarship with a renewal condition of 3.0 and a 50% scholarship with a renewal condition of 2.5, it may be that the people with 50% scholarships have a higher

likelihood of retaining their scholarships then those with larger scholarships but correspondingly higher conditions.)

Second, however, the student also needs to ask how many students in the previous two or three years who came into school with an LSAT/GPA profile comparable to hers managed to get a 3.5 GPA or a 3.7 GPA. For a prospective student with an LSAT/GPA in the bottom half of the entering class LSAT/GPA distribution, it well may be that few, if any, comparable students managed to get a 3.5 GPA or a 3.7 GPA at the end of the first year.

New Creative Efforts to Play on Optimism Bias of Applicants

This “carrot” approach to conditional scholarships is simply the newest technique for taking advantage of the optimism bias of prospective students. The Standard 509 disclosure obligations do not capture this type of conditional scholarship. Thus, law schools do not have an affirmative obligation to disclose the extent to which students in various ranges across the LSAT/GPA distribution of an entering class are likely to obtain a GPA of 3.5 or 3.7 at the end of the first-year.

Indeed, this “carrot” approach could be used by any law school – even law schools that do not generally offer conditional scholarships that trigger a reporting obligation. Such a law school could offer a slightly smaller unconditional scholarship on the front end along with the “carrot” condition – the prospect of a scholarship increase if certain GPA performance thresholds are met -- and perhaps entice students who optimistically believe they are going to outperform their LSAT/GPA profile to accept the law school’s scholarship offer rather than a comparable scholarship offer from another law school that did not offer a “carrot.”

Of course, this “carrot” approach to conditional scholarships presents another information asymmetry problem and optimism bias problem. The law school would know how few students meet the GPA threshold for an increased scholarship while the prospective students would optimistically, but unrealistically, believe they are capable of meeting the threshold.

But the fact that law schools do not have an affirmative obligation to disclose the likelihood of success in meeting the GPA threshold for the enhanced scholarship award does not mean that prospective students can’t ask for very specific information about the number of students with comparable LSAT/GPA profiles who actually obtained the GPA thresholds over the prior three years. Once again, law schools should have this information available and should be willing to disclose the information.

In any of these situations, if a prospective student asks for specific information about the scholarship retention or scholarship enhancement prospects of similarly-situated students in the three prior years and a law school claims not to have the information or is not willing to share the information, this should prompt suspicion on the part of the prospective student. Law schools have this information (or should have it) and should provide answers to these questions when asked.