Of Transfers and Law-School-Funded Positions

By Jerry Organ

1. Many Elite Law Schools with Large Numbers of Transfers also Have Large Numbers of Law-School-Funded Positions

Several weeks ago, I participated in two separate conversations. One was about when law-school-funded positions should be categorized as full-time, long-term, bar-passage-required (FLB) positions and one was about transfer students. This prompted me to compare those schools that are "big players" in law-school-funded positions with those schools that are big players in the "transfer" market. Interestingly, as shown in the chart below, there is a significant amount of overlap.

For the Class of 2014, of the 15 law schools with the most graduates in FLB positions, ten had a significant (net) number of transfer students in the summer of 2012. (The chart is sorted based on 2014 FLB positions (in bold). To provide context, the chart also includes the 2011 net transfer data and 2013 law-school-funded FLB data for these 10 schools.)

Law School	2011 Net Transfers	2013 Law-School-Funded FLB	2012 Net Transfers	2014 Law-School-Funded FLB
GEORGE WASHINGTON	94	88	46	**78**
GEORGETOWN	63	73	75	**64**
EMORY	8	62	32	**52**
NYU	55	42	50	**36**
MICHIGAN	36	3	28	**33**
SOUTHERN CALIFORNIA	20	10	28	**31**
UCLA	35	31	33	**31**
COLUMBIA	44	29	57	**31**
HARVARD	30	11	31	**26**
BERKELEY	12	25	38	**20**
Total	397	374	418	402

Note that in both 2013 and in 2014, six of the ten schools had more transfers than law-school-funded positions, suggesting that had they taken fewer transfers they might not have needed to provide as many law-school-funded positions. Phrased differently, this data suggests that with the transfer students, these law schools have too many graduates compared to the number of jobs the market is able to provide for their graduates.

2. Adjusting to the Employment Market or Continuing to Attract Transfers and Provide Law-School-Funded Positions?

One might expect that a natural response to this "mismatch" between the number of graduates and the number of meaningful employment opportunities provided by the market would be to have fewer graduates (and fewer law-school-funded positions). Indeed, for many of the schools in the chart above, the simplest way to do this would involve not accepting any transfer students (or accepting very few transfer students). The first-year enrollment at these schools appears to be fairly-well calibrated with the number of meaningful employment opportunities provided by the market. Of course, this would mean a significant loss of revenue.

But what happened at these ten law schools in the summer of 2013 and the summer 2014 with respect to transfer students? As shown in the chart below, almost all have continued to take large numbers of transfer students. With knowledge that a not insignificant percentage of their graduates need the support of law-school-funded positions because they can't find market positions, these law schools continue to take large numbers of transfers. Indeed, the total number of net transfers at these ten law schools is even higher in 2013 and 2014 than in 2011 and 2012.

	2014 Net Transfers	2013 Net Transfers
GEORGE WASHINGTON	77	71
GEORGETOWN	106	115
EMORY	47	69
NYU	48	46
MICHIGAN	14	20
SOUTHERN CALIFORNIA	27	34
UCLA	33	36
COLUMBIA	41	50
HARVARD	31	34
BERKELEY	53	24
Total	477	499

3. Why are These Schools Continuing to be Big Players in the Transfer Market and in Providing Law-School-Funded Jobs and Why Aren't Other Schools Doing This as Well?

Many elite law schools are participating heavily in the transfer market and in providing law-school-funded jobs because they can and because it makes financial sense to do so.

As a general matter, only relatively elite law schools are able to attract large number of transfer students willing to pay $50,000 per year in tuition. (This assumes that most transfers are paying full tuition. There is very little information available about scholarships in the transfer market, but anecdotes suggest that scholarships are uncommon.) By taking large numbers of transfers, these schools generate revenue that funds general operations AND enables the school to fund post-graduate employment opportunities for a significant number of graduates. According to NALP, most graduates in law-school-funded positions receive salaries of roughly $15,000-$30,000 per year. Even if they have as many law-school-funded positions as they do transfers, the schools still net $70,000 to $88,000 per transfer student over the second and third year of law school even after accounting for the salaries for law-school-funded positions. (To be fair, some modest percentage of law-school-funded positions at several of these law schools may be great opportunities that are highly competitive and pay a salary comparable to a market salary – in excess of $40,000 per year. Some of these may be public interest opportunities that some students find particularly attractive. But the proliferation of law school funded positions (having grown from just over 500 in 2012 to more than 800 in 2014), with most of the growth occurring at relatively elite law schools, suggests that many of these positions do not fit the profile described in the preceding two sentences.)

Other schools would love to do this, but most simply don't have the ability to attract significant numbers of transfer students. Moreover, in the present legal education environment with declining enrollment at most schools, many law schools are running a deficit, and simply can't afford to invest money in law-school-funded positions for their graduates.

Notably, up until this year, this effort was aided by the reporting of law-school-funded jobs as if they were the same as jobs provided by the market. A school with law-school-funded positions that otherwise met the definition of FLB positions could report a higher percentage of its graduates in such positions. This minimized the extent to which less than robust employment results might erode the schools' ability to attract students and has allowed these elite schools to continue to attract large numbers of relatively highly-credentialed entering students (and transfers) along with the revenue they bring to the school. For the Class of 2015, however, these law-school-funded positions will be reported separately from FLB positions provided by the market.

4. What Questions Might this Raise for Students?

Students considering transferring to one of these elite schools should ask two questions: 1) What percentage of law-school-funded positions went to transfer students? and 2) How do employment outcomes for transfer students compare with employment outcomes for students who began at the school as first years? (Even with the increased attention on transparency with respect to employment outcomes, one data point not presently collected relates to employment outcomes for transfer students.) This isn't to suggest that all transfers end up in law-school-funded positions. Some transfer students may outperform some of the students who began at a law school as first years, both in terms of academic performance and in terms of relationship skills. These transfer students may outcompete original first-year students for market employment opportunities. But students considering transferring might want to assess whether their employment prospects really will be better at the school to which they might transfer as compared with the opportunities available to them if they remained at the school from which they are considering transferring, particularly if they are near the top of the class at the school from which they are considering transferring.

Students who had matriculated as first-years at one of these elite law schools, might want to ask the law school administration how and why having a large number of transfers is a good thing for those who matriculated as first-years at the elite law school. Having the additional revenue might enhance the educational experience in some way, but having significantly more students competing for jobs would seem to be an unnecessary challenge.

5. Conclusion

The data on transfers in 2013 and 2014 suggests that at many elite law schools, there will continue to be more graduates than jobs provided by the market. As a result, these law schools are likely to continue to provide law-school-funded positions for some number of their graduates. Indeed, the prospect of law-school-funded positions as a fall-back option if a market position is not available might provide some solace for students, including transfer students, at these elite law schools.

Nonetheless, there is a further ripple effect. With dozens of graduates from these elite law schools in law-school-funded positions looking for market jobs, it makes it even more challenging for the next year's graduates from these elite schools to find market jobs and almost assures that many graduates will still need the support of law-school-funded positions in the coming years.

(I am grateful to Bernie Burk and others for helpful comments on earlier drafts of this posting.)