

Thursday, May 7, 2015

Revisiting Conditional Scholarships

By [Jerry Organ](#)

Having been one of the people who brought attention to the issue of conditional scholarships a few years ago, I feel compelled to offer a few insights on a rekindled conversation about conditional scholarships involving [Jeremy Telman](#) and [Michael Simkovic](#) and [Debby Merritt](#).

I am not sure what prompted Prof. Telman to write about conditional scholarships, but the first sentence of his initial post seems to be a few years late:

One of the ways in which law schools **are** allegedly inadequately transparent is in the award of merit scholarships conditional on the students' achievement of a certain grade point average. (Emphasis added)

A few years ago, one accurately could have said that law schools were inadequately transparent regarding the awarding and retention of conditional scholarships. I did say that in [an article](#) Prof. Telman describes as "interesting."

Today, this is no longer accurate, because we have much greater transparency regarding conditional scholarships given the disclosures mandated pursuant to Standard 509.

Thus, I am not sure anyone is alleging that law schools are inadequately transparent regarding conditional scholarships and I am not sure why this is once again an item for discussion. It has been well settled and law schools and prospective law students have adjusted to a new reality. Indeed, in his follow up posting, Prof. Telman essentially acknowledges this point:

It seems we are all agreed that the disclosure problems related to conditional scholarships have largely been addressed through the [ABA website](#) that enables students to comparison shop among scholarship offers from various schools and know their chances of retaining their conditional scholarships.

That said, given that Prof. Telman got the conversation started, I have a response to one of his assertions and some observations to share.

The general context of his posting (and Prof. Simkovic's related posts) is that college students have lived with conditional scholarships without apparent problems so conditional scholarships shouldn't present a concern for law students. In making his case, Prof. Telman relies on my 2011 article to support a proposition that the article actually disproves in some detail. Specifically, Prof. Telman states:

Professor Organ was able to find information about how scholarships work at 160 law schools. That means that the information was out there. Since Professor Organ was able

to gather information about 160 law schools, it should not be difficult for students to gather relevant information about the one law school that they are considering attending.

He further states: "Why are law students assumed to be incapable of looking into standard grade normalizations curves for the first year?" Prof. Telman seems to be suggesting that there actually weren't any disclosure problems because "the information was out there." The information was not out there.

To be more precise, in putting together the article, with the efforts of research assistants as well as my own sleuthing, I was able to find sufficient information from the NAPLA-SAPLA Book of Lists, the ABA-LSAC Guide, and law school web pages from which to classify 160 law schools regarding whether the law school had a competitive scholarship program or some other type of scholarship program. If Prof. Telman would have looked carefully at the article, however, he would have noted that "only four of these 160 schools had any information posted on their webpages indicating renewal rates on scholarships." (A point Derek Tokarz makes in the comments to Prof. Telman's post.)

Prospective law students not only need relevant information about one law school, they need relevant and comparable information about the set of three or five or seven law schools they are considering seriously. Prior to the Standard 509 mandated disclosure of conditional scholarship information, it was profoundly difficult if not impossible for students to gather relevant information from a few or several law schools. The information simply was not "out there."

Indeed, two of the primary points of my article were to highlight the information asymmetry between law schools and prospective law students relating to competitive scholarships and to recommend greater disclosure of the number of students receiving competitive scholarships and the number who had them renewed (or had them reduced or eliminated).

Prof. Merritt discusses in some depth this information asymmetry, noting particularly that college students who have been successful in retaining their conditional scholarships as undergrads do not appreciate the reality of the mandatory curve they will encounter in law school, a point Stephen Lubet also makes cogently in a comment to Prof. Telman's post. (Indeed, to his credit, Prof. Telman acknowledges that prospective law students also may suffer from optimism bias in assessing their likelihood of retaining their scholarship.)

Regarding the need for greater disclosure, regardless of how savvy and sophisticated we would like to believe prospective law students might have been or might be, the nuances of conditional scholarships and mandatory curves were not things that were clearly understood in the era prior to the mandatory Standard 509 disclosure. I noted in my article that many students posting on Law School Numbers valued their scholarships based on a three-year total, regardless of whether they were conditional scholarships, suggesting these students failed to appreciate that the "value" should be discounted by the risk of non-renewal. I also spoke with pre-law advisors around the country regarding conditional scholarship and consistently was told that this information was very helpful because pre-

law students (and sometimes pre-law advisors) had not appreciated the realities of conditional scholarships.

While there are other things mentioned by Prof. Telman, Prof. Simkovic and Prof. Merritt to which I could respond, this post is already long enough and I am not interested in a prolonged exchange, particularly given that many of the points to which I would respond would require a much more detailed discussion and more nuance than blog postings sometimes facilitate. My 2011 article describes my views on competitive scholarship programs and their impact on law school culture well enough. Accordingly, let me end with one additional set of observations about what has happened with conditional scholarships in an era of increased transparency.

In my [follow up article](#) available on SSRN, I analyzed the frequency of conditional scholarships generally and the extent to which conditional scholarships were utilized by law schools in different rankings tiers for the 2011-2012 academic year (the first year following the ABA's mandated disclosure of conditional scholarship retention rates).

For the entering class in the fall of 2011, I noted that there were 140 law schools with conditional scholarship programs, and 54 law schools with scholarship renewal based only on good academic standing, one-year scholarships, or only need-based scholarship assistance. I also noted that conditional scholarship programs were much less common among top-50 law schools than among bottom-100 law schools.

Based on the data reported in fall of 2014 compiled by the ABA for the entering class in the fall of 2013 (the 2013-2014 academic year), the percentage of all entering first-year students with conditional scholarships has increased slightly (from 26.1% in fall 2011 to 29% in fall 2013), while the percentage of all entering first-year students who had their scholarships reduced or eliminated has decreased slightly (from 9% as of summer of 2012 to 8.4% as of summer of 2014). The average renewal rate across law schools increased from 68.5% to 73%.

More significantly, however, the number of law schools with conditional scholarship programs has declined, while the number with other types of scholarship programs has increased fairly significantly. By 2013-2014, there were 78 law schools with scholarships renewed based on good academic standing, with one-year scholarships or with only need-based scholarship assistance, a significant growth in just two years in the number of law schools going away from conditional scholarship programs -- 24 more law schools, a 40% increase. This would seem to indicate that at least some law schools have decided conditional scholarships aren't as good for law schools or for law students.