Apr 10 Clueless About Salary Stats

Table started by **Deborah J. Merritt** **on Apr 11, 2015 at 12:10 am**
Data, **Jobs**, **Michael Simkovic**, **NALP**

Students and practitioners sometimes criticize law professors for knowing too little about the real world. Often, those criticisms are overstated. But then a professor like Michael Simkovic says something so clueless that you start to wonder if the critics are right.

Salaries and Response Rates

In a recent post, Simkovic tries to defend a practice that few other legal educators have defended: reporting entry-level salaries gathered through the annual NALP process without disclosing response rates to the salary question. Echoing a previous post, Simkovic claims that this practice was "an uncontroversial and nearly universal data reporting practice, regularly used by the United States Government."

Simkovic doesn't seem to understand how law schools and NALP actually collect salary information; the process is nothing like the government surveys he describes. Because of the idiosyncracies of the NALP process, the response rate has a particular importance.

Here are the two keys to the NALP process: (1) law schools are allowed–even encouraged–to supplement survey responses with information obtained from third parties; and (2) NALP itself is one of those third parties. Each year NALP publishes an online directory with copious salary information about the largest, best-paying law firms. Smaller firms rarely submit information to NALP, so they are almost entirely absent from the Directory.

As a result, as NALP readily acknowledges, "salaries for most jobs in large firms are reported" by law schools, while "fewer than half the salaries for jobs in small law firms are reported." That's "reported" as in "schools have independent information about large-firm salaries."

For Example

To see an example of how this works in practice, take a look at the most recent (2013) salary report for Seton Hall Law School, where Simkovic teaches. Ten out of the eleven graduates who obtained jobs in firms with 500+ lawyers reported their salaries. But of the 34 graduates who took jobs in the smallest firms (those with 2–10 lawyers), just nine disclosed a salary. In 2010, 2011, and 2012, *no* graduates in the latter category reported a salary.

If this were a government survey, the results would be puzzling. The graduates working at the large law firms are among those "high-income individuals" that Simkovic tells us "often value privacy and are reluctant

to share details about their finances." Why are they so eager to disclose their salaries, when graduates working at smaller (and lower-paying) firms are not? And why do the graduates at every other law school act the same way? The graduates of Chicago's Class of 2013 seem to have no sense of privacy: 149 out of 153 graduates working in the private sector happily provided their salaries, most of which were $160,000.

The answer, of course, is the NALP Directory. Law schools don't need large-firm associates to report their salaries; the schools already know those figures. The current Directory offers salary information for almost 800 offices associated with firms of 200+ lawyers. In contrast, the Directory includes information about just 14 law firms employing 25 or fewer attorneys. That's 14 nationwide-not 14 in New Jersey.

For the latter salaries, law schools must rely upon graduate reports, which seem difficult to elicit. When grads do report these salaries, they are much lower than the BigLaw ones. At Seton Hall, the nine graduates who reported small-firm salaries yielded a mean of just $51,183.

What Was the Problem?

I'm able to give detailed data in the above example because Seton Hall reports all of that information. It does so, moreover, for years going back to 2010. Other schools have not always been so candid. In the old days, some law schools merged the large-firm salaries provided by NALP with a handful of small-firm salaries collected directly from graduates. The school would then report a median or mean "private practice salary" without further information.

Was this "an uncontroversial and nearly universal data reporting practice, regularly used by the United States Government"? Clearly not-unless the government keeps a list of salaries from high-paying employers that it uses to supplement survey responses. That would be a nifty way to inflate wage reports, but no political party seems to have thought of this just yet.

Law schools, in other words, were not just publishing salary information without disclosing response rates. They were disclosing information that they *knew* was biased: they had supplemented the survey information with data drawn from the largest firms. The organization supervising the data collection process acknowledged that the salary statistics were badly skewed; so did any dean I talked with during that period.

The criticism of law schools for "failing to report response rates" became a polite shorthand for describing the way in which law schools produced misleading salary averages. Perhaps the critics should have been less polite. We reasoned, however, that if law schools at least reported the "response" rates (which, of course, included "responses" provided by the NALP data), graduates would see that reported salaries clustered in the largest firms. The information would also allow other organizations, like Law School Transparency to explain the process further to applicants.

This approach gave law schools the greatest leeway to continue reporting salary data and, frankly, to package it in ways that may still overstate outcomes. But let's not pretend that law schools have been operating social science surveys with an unbiased method of data collection. That wasn't true in the past, and it's not true now.

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I would hesitate to call Simkovic "clueless." Whether he is right or wrong, he is
the only legal analyst currently applying sophisticated labor econometrics to
the problems with respect to which he and Prof. Merritt disagree.

I also think it regrettable that Prof. Merritt feels compelled to go after
Simkovic's law school. This kind of ad hominem attack has no place in
respectable academic scholarship. Prof. Merritt may have valid points to make,
but she does herself a disservice with this post.
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