

TO: Federal Judges' OSCAR Working Group

FROM: NALP Judicial Clerkship Section

DATE: January 26, 2015

RE Feedback on the Most Recent Hiring Season

Thank you for allowing the Judicial Clerkship Section of NALP the opportunity to share with the OSCAR Working Group the experiences and feedback of our law school members concerning the most recent hiring season. To gather information, we reached out to NALP member law schools through the Judicial Clerkship Section. The primary topics that were addressed are discussed below.

Timing

There was a general sense of uncertainty among law schools – and their applicants – regarding the appropriate time to submit applications during this past clerkship season. While schools understood that many judges were accelerating their application and interviewing timelines, there was a fair amount of confusion as to what exactly those timelines were. As a result, it was difficult for the schools to effectively counsel applicants on when and how to best submit a competitive application packet. We are hopeful some of this confusion will be alleviated by OSCAR's new field allowing chambers to fill in the number of semesters of grades required before applying. We appreciate the willingness of the OSCAR Working Group and OSCAR staff to add additional fields such as these, which help address concerns about timing and transparency in the clerkship application process.

The lack of certainty regarding timing and the accelerated hiring timeline also created additional challenges for law schools regarding the timely preparation of letters of recommendation. Law schools noted that the lack of a hiring timetable and the relatively quick turn-around from posting a position to actual hiring made it more difficult for faculty to write letters of recommendation.

Application Activity

In reviewing the 2014 clerkship hiring period, law schools generally observed that federal clerkship hiring is now ongoing year-round. There did, however, seem to be two distinct waves of hiring activity. First, there was an initial surge of interviewing and hiring in November 2013, immediately following the opening of OSCAR to second-year students (2Ls), regardless of a fixed Federal Law Clerk Hiring Plan date. Second, a seemingly larger wave of activity happened between February and April 2014. This second wave of activity seemed to be triggered by the release of fall term grades, along with the official announcement that the Hiring Plan was discontinued. Law schools observed later spurts of applications and interviews, which seemed to be clustered around the release of grades.

Fewer Applicants

As was the case last year, law schools once again witnessed a decrease in the number of students applying for clerkships in federal courts. Confusion about timing and lack of transparency were repeatedly mentioned as reasons that schools' competitive clerkship applicants withdrew from the process. First, schools noted that the uncertainty about the timing of applications dampened students' enthusiasm for the possibility of pursuing a federal judicial clerkship. To their law school advisors, students reported a general sense of confusion about the current process and a concern about jeopardizing a potential permanent post-graduation offer from a summer employer by accepting a clerkship prior to starting that summer position. Applicants opted not to move forward, too, because they lacked the close working relationships with faculty members so early in their law school careers necessary to get strong letters of recommendation.

Second, schools observed a genuine sense of concern about the validity of publicly-available information regarding judges' hiring timelines. In some instances, students reported relying on posted information only to find out that it was outdated or simply inaccurate. Some schools – individually or in groups – called chambers to determine judges' hiring plans, putting an increased burden on chambers and schools. Part of the difficulty stemmed, no doubt, from judges simply changing their minds and not promptly updating OSCAR. An additional source of concern about the accuracy of information was driven by contradictory information within a judge's OSCAR profile – the Additional Chambers Information may indicate that the judge is not currently hiring, for example, but the judge will also have recently posted a position. We genuinely appreciate the efforts of the OSCAR staff to train and educate judges and chambers staff on timely and effective updates and the work of the OSCAR Help Desk in reaching out to chambers when notified of inconsistencies. Neither OSCAR staff nor law schools can constantly monitor every OSCAR entry to ensure information is accurate, however, and static information creates confusion and frustration among applicants. We would be more than willing to work with the OSCAR staff to explore ways in which accuracy and consistency might be improved. For example, perhaps there are ways to automatically prompt chambers to update the judge profile information whenever any action is taken on a position posting (created, marked filled, expired, archived), or ways to tie all parts of a judge's profile and hiring data together, automatically populating in multiple fields, or even simply ways to enhance system reminders for judges to update their hiring information.

Finally, the increasing number of offers extended for clerkships scheduled to begin a year or more after a student's law school graduation date may also contribute to the decline in applicants. These "gap-year" clerkships create employment challenges for the successful candidates. Students believe it may be difficult to develop skills in a practice area and relationships with more senior lawyers if their private firm employment were to be effectively put on hold for a clerkship. And, for those "gap-year" clerks who want to pursue a career in government or public interest organizations, which often require a multi-year commitment from new lawyers, it is a challenge to frame a job search around a future clerkship.

Application Methods

Over the most recent application season, law schools observed a significant decrease in the number of paper applications submitted. This decrease in paper applications seems, at least in part, to be tied to the

elimination of a fixed Hiring Plan date. Several schools indicated that they believed the increase of paper applications during the 2013 hiring season was due in large part to 2Ls applying via paper because they were unable to submit applications via OSCAR. The elimination of OSCAR's link to the Federal Law Clerk Hiring Plan, and the eventual discontinuance of the Hiring Plan, allowed 2Ls to apply through OSCAR and probably contributed to the decrease schools saw in paper applications.

By contrast, law schools indicated a notable increase in the number of email applications submitted, and noted that an increasing number of judges accepted applications only via email. For law schools, the increase in the number of judges requesting email applications raises a concern. In addition to being much more difficult for law schools to manage administratively, email applications undermine the usefulness of OSCAR as an application tool and add to students' general concern about a lack of transparency in the hiring process.

Finally, law schools noted a decrease in the number of applications submitted via OSCAR. While this decrease may, in small part, be attributable to the 100 application limit that is now in place, law schools seem to believe that other factors contributed to the lower volume. These factors include the overall decrease in the number of applicants, the general increase in requests for email applications, and a slight improvement in the legal job market generally.

OSCAR Limit on Applications

Schools had mixed responses to the 100 application limit imposed by OSCAR during the last clerkship hiring season. A majority of law schools that submitted feedback believed that it did not affect their students – they had very few, if any, apply for more than 100 applications at any given time. This was attributable, in part, to the fact that judicial clerkship hiring takes place year-round, as opposed to during one specific time period, as it did under the Federal Law Clerk Hiring Plan. A few law schools expressed that the application limit made applicants be more thoughtful about where they applied. Other law schools believed that the application limit contributed to an increase in email and paper applications, or discouraged students from being geographically flexible in their applications. One law school expressed that the limit disadvantaged students in large, metropolitan areas or large states (such as New York, Washington, DC, or California), where more than 100 judges might reside. Similarly, one law school opined that students who attend schools that receive less national attention are disadvantaged by the application limit, explaining that, to be competitive, students at these more regional schools must adopt a broader application strategy. These law students would need to send more paper applications, at a significant cost to the students, and to the detriment of the OSCAR system.

Conclusion

Once again, NALP appreciates the continuing dialogue and strong working relationship with the OSCAR Working Group. As the clerkship landscape shifts, OSCAR remains an essential source of information for alumni and student candidates. The role that OSCAR plays in streamlining the clerkship application process and providing critical information about judge hiring preferences is one that we hope continues. OSCAR promotes transparency in clerkship hiring, which we believe will help increase the diversity of the judicial law clerk pool and a fair hiring process. Thank you for allowing us to contribute to the discussion about OSCAR through this memorandum.