

MEMORANDUM

October 15, 2020

To: Catherine Clement, NALP Board Liaison
Claire Nash, NALP Member Services Coordinator

From: Alison Y. Ashe-Card, NALP Diversity, Equity & Inclusion Section Chair

Re: NALP Diversity, Equity & Inclusion Section Board Report, October 2020

The NALP Diversity, Equity & Inclusion Section continues to be a strong community within the NALP space. The Section has 582 members currently. Summaries of the reports for the current Vice Chairs for our Work Groups are below.

Vice Chair Reports

- **Annual Education Conference/Bulletin Article/Webinar Planning**
 - *Summra Shariff, Nirvana Dove*
 - 10 RFP were submitted on behalf of the Diversity, Equity, and Inclusion Section.
 - 5 *Bulletin* article proposals (5 articles and 1 3-part series Feature) were submitted.
 - **Feature**
 - *Making Noise - Doing Our Part to Dismantle Racism and White Supremacy in the Legal Profession* (September 2020)
 - **Bulletin articles**
 - Bostock decision (October 2020)
 - 6 months after George Floyd's death and the aftermath, where are we and where are we going (November 2020 and April 2021)
 - Get Off the Sidelines: Moving from Bystander to Ally (December 2020)
 - Emerging/Hot DEI Topic (February 2021)

- **Mentoring**
 - *Shannon Burke*
 - Invitation to participate in mentoring program. Deadline to express interest is October 16, 2020.

- **LGBTQ**
 - *José Bahamonde-Gonzalez*
 - Several work group and DEI Section members volunteered for the Career Counseling session during the virtual Lavender Law Conference.
 - Several work group and DEI Section members have assisted with planning the *Let's Talk Nonbinary* events and have served as facilitators for the small group discussions.

- **Legislative Monitoring**

- *Traci Sharpe, Sheila Simhan*
- Report is attached.

- **Environmental Scanning Work Group**

- *Ray English, Alicia Currin-Moore, Justine Lewis*
- The work group plans to post at least one article or current DEI topic on NALPconnect each month to generate discussion. They have posted the following:
 - [“How to Lead in Times of High Racial Tension”](#) – Sidney Warren (July 2020)
 - [“Missing Link to Sustainable Diversity and Inclusion”](#) TEDx by Maria Morikian (August 2020)

- **Recruitment Tools Evaluation**

- *Fayola Alibey*
- The work group met with the JD Career Advisor Section on October 1, 2020 to discuss the goals and plans for the work group. The first task is to send out a survey to NALP members to get data on the common, and/or new recruitment tools law firms and public interests organizations are using; the benefits and setbacks to having those tools; and they will also try to determine whether there have been any changes in the tools being used since COVID, amongst other questions. After they analyze the results, they are going to publish an internal memorandum.
- They work group was scheduled to meet on October 14, 2020 with the JD section to finalize the questions for the survey to send to NALP.

- **Member Relations**

- *Michelle Jackson, Jessica Rivera*
- The work group has continued to welcome new section members via email outlining resources available in the section and in NALP, as well as information on upcoming events. The work group has also reached out to departed members to inquire as to why they left. So far, the main reason given is change in position.
- 59 new section members and 5 members who have left since 4-1-2020.

- **Knowledge Management**

- *Jernee Bramble*
- Over the summer, the NALP Section KM Vice Chairs met with Andy Hales (Chair, NALP Knowledge Management Advisory Group) for a couple of trainings to bring them up to speed about the project and to share the charge before us. During these “mini-trainings,” they received a primer on KM and content modeling as well as conducted a content

- inventory. After the trainings, they were tasked with reviewing relevant sections and providing feedback.
- The work group chair been reviewing the DEI section of the NALP website, making note of items such as location, title, author, content type, description, audience, topic(s), and decision to keep or archive the information. After her initial review, she will involve the other work group members.

Environmental Scanning

During our October 13 call we discussed the impact of President Trump's September 22, 2020 [Executive Order on Combating Race and Sex Stereotyping](#) and how firms/schools were responding. The Executive Order requires federal contractors and agencies that receive federal grants to discontinue training that contains "any form of race or sex stereotyping" and other "divisive concepts," which could include discussions of the existence of white supremacy. Some schools, such as Texas State University have already paused diversity training because the executive order threatens federal funding.

United States Department of Justice sued Yale University Thursday over charges of racial discrimination against Asian American and white applicants in its admissions process. The Justice Department determined in mid-August that Yale violated civil rights law by using race as a "determinative factor" in its admissions process, alleging it disadvantaged Asian American and white applicants. At the time, the Justice Department demanded Yale change its admissions procedures in a press release, threatening to sue unless Yale complied. Federal authorities are also investigating Harvard's admissions process — an effort that was ongoing through at least last December. Assistant Attorney General Eric S. Dreiband of the Justice Department's Civil Rights Division explained the Justice Department's reasoning in a press release announcing the lawsuit.

"All persons who apply for admission to colleges and universities should expect and know that they will be judged by their character, talents, and achievements and not the color of their skin," said Dreiband in the release. "To do otherwise is to permit our institutions to foster stereotypes, bitterness, and division."

It is likely that affirmative action will come before the US Supreme Court.

Section Calls

The second quarterly section call was held via WebEx on October 13. Catherine Clement (DEI Board Liaison) and Beth Moeller (NALP President) were on the call. Catherine Clement provided a brief update and reminders. Then, each work group chair provided their work group updates. Next, the section members present discussed the Diversity Summit. I recognized Lezlie Griffin and Kia Scipio for their roles in planning and executing the Summit. Overall, there was very positive feedback regarding the Summit. Members enjoyed the content, the platform, and the networking opportunities. We reminded members that they had 30 days to review the presentations and handout. We also let members know that it could still be purchased. Finally, we discussed ways in which we could provide additional support to our diverse members and member who are working in DEI position or have such responsibilities both professionally and personally. One member suggested scheduling a webinar panel of DEI veterans to provide guidance to members new to the DEI space. We also suggested

scheduling open sessions for members to log on and discuss what's on their mind. I plan to schedule the first open session on Thursday, November 12 at 3pm (eastern).

Diversity report

1 message

Traci Sharpe <tsharpe@usfca.edu>
To: "Ashe-Card, Alison" <asheay@wfu.edu>

Tue, Oct 13, 2020 at 11:23 AM

Legislative Monitoring Work Report - October

Federal Legislative Updates

Immigration

U.S. immigration officials have clarified that new international students -- unlike current international students - cannot come to American colleges to take a "100 percent" online course load. It also says that students will not be at risk of deportation if their institutions switch from an in-person or hybrid mode to an online-only mode in the middle of the term due to the pandemic. Trump's temporary ban on H1B foreign worker visas has been lifted by the courts while the case is being litigated. In recent weeks, the trump administration has proposed a plan to change the H-1B visa program for high-skilled foreign workers that will require employers to pay H-1B workers significantly higher wages, narrow the types of degrees that could qualify an applicant and shorten the length of visas for certain contract workers. The U.S. Supreme Court has blocked the Trump administration's plan to dismantle the DACA program. The court decided that the way Trump went about canceling DACA was illegal, but that the president does have the authority to cancel the program if done properly. For now, though, more individuals can continue to apply for DACA status.

LGBTQ Rights

The Supreme Court says federal law protects LGBTQ workers from discrimination. The court left open however, questions about access to restrooms and locker rooms. The decision will allow people to file lawsuits who say they were discriminated against in the workplace based on their sexual orientation or gender identity.

Marriage Equality:

The Supreme Court declined to hear an appeal in the case of former Kentucky clerk Kim Davis, who was jailed in 2015 after refusing to issue marriage licenses to same-sex couples, after gay marriage became legal. In a scathing attack Justices Thomas and Alioto said the court had "bypassed the democratic process" and left those with religious objections to **same-sex marriage** "in the lurch". "By choosing to privilege a novel constitutional right over the religious liberty interests explicitly protected in the First Amendment, and by doing so undemocratically, the court has created a problem that only it can fix," they said. "Until then, [the case of] Obergefell will continue to have 'ruinous consequences for religious liberty'."

Judge Barrett on the Supreme Court could affect LGBTQ rights because she once questioned the Court's landmark ruling on marriage equality. The issue came up during a [lecture she gave at Jacksonville University](#) ahead of the 2016 presidential election, while she was a professor at Notre Dame. In that lecture, she defended the dissenters in [Obergefell v. Hodges](#), the landmark Supreme Court ruling which made marriage equality the law of the land, as well as suggesting the Title IX rights afforded to transgender people ought to be reviewed by lawmakers.

Affirmative Action

The Justice Department accused Yale University of violating federal civil rights law by discriminating against Asian-American and white applicants. The Justice department's finding could have far-reaching consequences for the ongoing legal challenges to affirmative action, which are expected to eventually reach the Supreme Court.

State Legislative Updates

LGBTQ Rights

- Alliance Defending Freedom, a conservative legal group, has filed state and federal lawsuits challenging a new Virginia law that bars discrimination based on sexual orientation and gender identity.

In one case, a northern Virginia photographer filed a lawsuit in U.S. District Court in Alexandria alleging that the law will compel him to photograph same-sex weddings in violation of his religious beliefs.

A second suit filed in Loudoun County Circuit Court says that the law will compel a nondenominational church to hire people who violate the church's beliefs against same-sex marriage and choosing a gender identity that differs from their biological sex.

Fulton vs City of Philadelphia - to be heard by Supreme Court on November 4th

The Supreme Court will hear a case that could allow private agencies that receive taxpayer-funding to provide government services — such as foster care providers, food banks, homeless shelters, and more — to deny services to people who are LGBTQ, Jewish, Muslim, or Mormon.

In March 2018, the city of Philadelphia learned that two of the agencies it hired to provide foster care services to children in the city's care would not, based on their religious objection, accept same-sex couples as foster parents. Philadelphia informed the agencies that it would no longer refer children to them unless they agreed to comply with nondiscrimination requirements that are part of all foster care agency contracts. One of the agencies agreed to do so. The other, Catholic Social Services (CSS), sued the city, claiming the Constitution gives it the right to opt out of the nondiscrimination requirement.

In California Governor Newsom nominated the 1st openly gay judge to California Supreme Court, and 3rd African American man. It's been 29 years since an African American man has served on California Supreme Court. Judge Martin Jenkins is a USF School of Law alumnus.

Warm regards,

Traci

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Traci Sharpe, JD
Associate Director of Career Development
Office of Career Services

University of San Francisco School of Law
[2130 Fulton Street](#) (*currently working remotely*)
Kendrick Hall, Room 336
San Francisco, CA 94117-1080
Tel: 415-422-5605 | Fax: 415-422-6710
tsharp@usfca.edu | www.usfca.edu/law/career
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(pronouns: she/her/hers)

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