

## MEMORANDUM

**DATE:** February 1, 2017

**TO:** Fred Thrasher, NALP Duty Director  
Julie Anna Alvarez, NALP Board Liaison, Diversity Section

**FROM:** Kia N. Scipio, Diversity & Inclusion Section Chair

**Re:** NALP Diversity & Inclusion Section Third Quarter Report

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The Diversity & Inclusion Section Chair, Kia Scipio, called a meeting of all Working Group Vice-Chairs (see listed Vice Chairs in the Working Group Update Chart that follows) on Wednesday, January 17, 2018. Several of the working group vice chairs were unable to attend, so I asked each of them to provide an e-mail update on the progress of their working group's proposed plans and initiatives for the year. As a refresher, the D&I Section leadership identified and outlined the following priorities for the coming year:

- to move beyond talking about the known diversity and inclusion problems within the industry and to be as solutions-based for its members as possible;
- to be source of support for those working or interested in diversity and inclusion, through the creation of webinars about the roles of D&I professionals in law firms and law schools; the creation of an "on the job" guide for new D&I professionals; and encouraged involvement in the section's Mentoring Program; and
- to continue to make diversity and inclusion very visible within the NALP community, through webinars, updates to the Best Practices Guide, articles and columns within the NALP Bulletin, and programming at the 2018 NALP Conference.

The next Section call has not yet been scheduled, but will be sometime in late February/early March. In the meantime, the section chair and working group vice-chairs will utilize NALPConnect to share any interesting articles, initiatives, or information about upcoming programs so as to keep people coming to the page. To date, there are 522 members subscribed to the D&I Section NALPConnect Community.

Please note that Jason Beekman, vice-chair of SOGIE is leaving Cadwalader as of this week. He will be the campaign manager for a friend in Kansas City. While it is a huge loss for us, this is a fantastic opportunity for Jason we wish him much success! The

Working Group updates begin on the following page.

The following are updates (where applicable) from the Diversity & Inclusion Section's Working Groups, which includes all of the Working Group Vice-Chairs.

Working Groups & Vice Chairs	THIRD QUARTER UPDATES
<p><b>Annual Education Conference/ Bulletin Article Planning</b></p> <p>Vice Chairs:</p> <p><i>Courtney Carter, Jenner &amp; Block LLP</i></p>	<p>The NALP Bulletin for both January and February 2018, include two article submissions on behalf of the D&amp;I Section and are listed below.</p> <ul style="list-style-type: none"> <li>• January--<a href="#">Five Practical Tips for Moving the Needle on Diversity &amp; Inclusion at your Law School</a>, by Jaya Saxena</li> <li>• February--<a href="#">Recruiting and Retaining Diverse Millennial Lawyers</a>, by Courtney Carter, Michelle Silverthorn, and Alexis Robertson</li> </ul> <p>There will be another article, submitted on behalf of the D&amp;I Section in the April edition of the NALP Bulletin, focused on maximizing the effectiveness of affinity groups in law schools and law firms. By the start of the 2018 NALP Annual Education Conference, there will have been four D&amp;I Section articles included in the NALP Bulletin between September 2017 and April 2018.</p>
<p><b>Diversity &amp; Inclusion Summit Planning</b></p> <p>Liaison to the Planning Committee:</p> <p><i>Demetria Johnson, Miles &amp; Stockbridge, LLP</i></p>	<p>The D&amp;I Summit Planning Committee met on October 18, 2017 at the NALP Office to put together what is going to be a fantastic program! With one opening plenary and 10 exciting concurrent sessions, the Diversity &amp; Inclusion Summit will take place on Friday, June 8, 2018 in Washington, DC. On June 7<sup>th</sup>, prior to the start of the Summit, there will be a 3 hour Newer Professionals Workshop-- Diversity 101: How to Start a Diversity and Inclusion Program in Your Organization. The day will conclude with optional dine-arounds in the city for those who will be in town, hosted by members of the D&amp;I Summit Planning Committee.</p>
<p><b>Diversity Best Practices Guide</b></p> <p>Vice Chair:</p> <p><i>Tiffany Simmons, American University, Washington College of Law</i></p> <p><i>Sherry-Ann Smith-Gomez Benjamin N. Cardozo School of Law</i></p>	<p>No Update</p>

<p><b>Webinars</b></p> <p>Vice Chair:</p> <p><i>Michelle Silverthorn,</i>  <i>Illinois Supreme Court</i>  <i>Commission on Professionalism</i></p>	<p>The Webinars and First Generation College Graduates Working Groups have collaborated and will host a webinar—The Next Diversity Frontier: First Generation Law Students and Lawyers—on Wednesday, February 15, 2018. This webinar will explore the challenges faced and ways to support the growing demographic of first generation law students and lawyers. Panelists will include members from both law schools and law firms.</p>
<p><b>Mentoring</b></p> <p>Vice Chair:</p> <p><i>Nirvana Dove,</i>  <i>Georgetown University Law</i>  <i>Center</i></p>	<p>No Update</p>
<p><b>SOGIE (Sexual Orientation and Gender Identity and Expression)</b></p> <p>Vice Chair:</p> <p><i>Jason Beekman,</i>  <i>Cadwalader, Wickersham &amp; Taft</i>  <i>LLP</i></p>	<p>SOGIE vice-chair, Jason Beekman partnered with Lois Casaleggi, Chair of NALP’s Legislative and Regulatory Reporting Task Force, to put together the included update about the state of the military ban on transgender service members and its impact on on-campus recruiting. This will be posted to NALPConnect’s D&amp;I Section and the Law School Members pages. You may also find it included at the end of this update.</p>
<p><b>First Generation College Graduates:</b></p> <p>Vice Chair:</p> <p><i>Michelle Jackson,</i>  <i>Northwestern Pritzker School of</i>  <i>Law</i></p>	<p>See update for the Webinars working group.</p>

### **A Developing Story: Military Trans Ban and On-Campus Recruiting**

In a series of tweets in late July 2017, President Trump directed the U.S. military to enact a prohibition on transgender military service. It is unclear, however, whether transgender individuals were ever allowed to openly serve in the military. In 2016, President Obama set the policy that transgender members of the military could begin to serve openly, and set the ban on recruitment of transgender individuals to end in July 2017. The current Administration extended that ban to July 2018. The recruitment ban has technically, therefore, always been in place. President Trump in his statement provided six months for the Secretary of Defense to submit a plan for the transgender ban. Muddled reporting on the state of transgender military recruiting caused further confusion.

The issue of restrictions on military service greatly impacts institutions of higher education, including law schools at which JAG regularly recruits. School antidiscrimination policies nearly universally prohibit discrimination on the basis of gender and sexual orientation, and many on the basis of gender identity. Under these policies, schools should ban military recruiting that is at all restrictive. However, per the Solomon Amendment, schools may not prohibit military recruiting – even if such recruiting violates school policies – without the risk of losing federal funding. This puts schools in a very difficult situation, and a familiar one. Many NALP members likely remember how schools struggled with how to respond to JAG recruiting under “Don’t Ask Don’t Tell,” which similarly placed schools at odds with their own antidiscrimination policies. NALP’s LGBT Section was at the forefront of DADT, and created the very helpful [Amelioration Best Practices Guide](#) to aid law schools in their response. Although developed under a different context, this Guide provides still relevant and helpful information. The Guide discusses, among other things, developing ameliorative responses, crafting communications for students and faculty, and empowering and supporting student leaders. The Guide also includes a several-page comprehensive list of additional resources.

Confusion over the state of the trans ban continued in the months following Trump’s initial announcement. In August, several federal lawsuits were filed challenging the proposed trans ban. One, filed in the District Court of D.C. by GLAD and NCLR representing a group of active-duty transgender service members with a combined 60 years of military service, resulted in an October 30, 2017 injunction by U.S. District Judge Kollar-Kelly blocking the Trump Administration’s proposed transgender military ban pending the outcome of the suit. The preliminary injunction effectively put the policy under Obama back in play, which, again, was unclear.

The last few weeks have, however, brought clarity (at least for now). In December, Judge Kollar-Kelly ordered the military to begin accepting transgender recruits on January 1, 2018, denying the Trump administration’s request for a delay. Several other federal courts in parallel litigation ruled similarly. In a statement, the Pentagon said it would comply with Judge Kollar-Kelly’s order while pursuing an appeal. In late December, days before the ban was set to expire, the Trump administration announced it would not seek a stay from the Supreme Court to block Judge Kollar-Kelly’s order opening the military to transgender persons. Instead, the administration announced it plans to litigate the ban in District Court.

Thus, on Monday, January 1, 2018, for the first time in American history, openly trans individuals were able to enlist in the U.S. armed forces. Although the issue is still being litigated, there is every indication that the trans ban is on life support if not dead.

NALP’s Sexual Orientation and Gender Identity and Expression Working Group and its Legislative and Regulatory Reporting Taskforce are working closely together to monitor this developing story and how military policy changes might affect NALP members. Through regular bulletins, communications, and postings on NALP Connect, we will keep you updated and provide you with helpful resources. Feel free to reach out to us directly to continue this conversation. We are always here to help: Jason Beekman ([Jason.Beekman@cwt.com](mailto:Jason.Beekman@cwt.com)),

D&I Section Vice-Chair for Sexual Orientation and Gender Identity and Expression Working Group); Lois Casaleggi ([lcasaleggi@law.uchicago.edu](mailto:lcasaleggi@law.uchicago.edu), Legislative and Regulatory Reporting Task Force Chair).