

April 11, 2011

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***Re: NALP GLBT Section Fourth Quarter Board Report***

The following is a report of the GLBT Section's activities for the fourth quarter of the 2010/2011 NALP year:

**Data Reporting**

**NALP Directory of Law Schools** – In aid of schools efforts to collect and report accurate numbers of LGBT law students, the LGBT Section prepared a short "Best Practices" memorandum. This document, published on the NALP Law School Listserv and the NALPNow! E-newsletter (March 3rd), detailed a proposed procedure that each law school could follow to advertise and collect the number of openly LGBT students. (The memo is attached to this report.)

**Don't Ask Don't Tell**

The Section prepared a short memorandum offering guidance to law schools on how to proceed with recruiting and ameliorative efforts in the wake of the repeal of Don't Ask Don't Tell. In short, until implementation is complete and the military begins accepting and recruiting openly LGBT students, schools should proceed as they have been. This memo was published on the NALP Blog on February 24, 2011. (A draft of this memo is attached to this report.)

In addition, panelists have been finalized for the "Hot Topics" Session at the Annual Conference will be dedicated to the how the repeal of Don't Ask Don't Tell might impact legal recruiting. Professor Beth Hillman of the University of California, Hastings College of Law and the Palm Center (which promotes the study of LGBT people in the armed forces), and Aaron Kahn, counsel for the Log Cabin Republicans in *Log Cabin Republicans v. U.S.* (which challenged the constitutionality of Don't Ask Don't Tell) will provide their insights on the past year of major legal developments, as well as how legal recruiting should proceed now that Don't Ask Don't Tell has been repealed. I will introduce the panelists and Jim Leipold will moderate.

Andrew Chapin has undertaken the preparation of a "fact sheet" for schools to use in making the case for maintaining amelioration funding, provided for LGBT-specific recruitment efforts as a result of law school's allowing military recruiters on campus. This sheet reports some facts that Career Services

offices can share with their administration pointing out the continued employment discrimination faced by LGBT individuals, as well as a list of schools who have already decided to maintain their financial support of LGBT-specific recruiting efforts. (A draft of this "fact sheet" is attached. This sheet is a work in progress and further clarification on existing data, as well as additional facts, will be included in subsequent drafts before this is shared with the larger NALP community.)

### **LeGaL Mentoring Program**

I am happy to report that the Mentoring Program, co-sponsored with Le-GaL (the LGBT Bar Association of New York) has begun, and based on registration of mentors and mentees, is a resounding success. 70 mentees have been paired with 60 mentors so far. A kick-off reception for the program, hosted by Skadden, was well attended (70 attendees - comprised evenly of students and attorneys). Various section members have volunteered to staff an "advisory group" to provide assistance to mentors and mentees with questions or concerns. The Section is working presently on a memorandum detailing the steps for other LGBT bar associations to emulate in creating mentoring programs.

### **Environmental Scanning**

The following is a list of articles that were submitted to the NALP GLBT Section listserv this quarter:

- "Don't Ask, Don't Tell' Remains in Effect Months After Passage of Law to End It", New York Times, February 23, 2011 – forwarded by Jim Leipold
- "Obama Orders End to Defense of Federal Gay Marriage Law", New York Times, February 23, 2011 – forwarded by Jeff Becherer
- "LGBTs in the Legal Profession: Will It Get Better?", Daily Journal, March 23, 2011 – forwarded by Eric Stern
- "HRC Urges Top Law Firms Not to Take up House Defense of DOMA" (Michael Cole Schwartz), March 23, 2011 – forwarded by Eric Stern
- "Athletes for Gay Rights", Inside Higher Education, March 30, 2011 – forwarded by Jim Leipold
- "President Obama Names Alison J. Nathan as Nominee for the United States District Court", March 31, 2011 – forwarded by Eric Stern

### **2010 – 2011 Work Group Summary**

I have shared the following information summarizing the work groups' activities and my thoughts for next year with President-Elect Marcy Cox as well as in-coming LGBT Section Chair Chris Teague:

- Employer Data Collection – The Section has a sound process for encouraging the few NALP members that abstain from collecting and/or reporting LGBT demographic information. Continuing existing efforts (e.g. letter to employers signed by NALP President, Section Chair and

listing the names of various signatories) is an adequate approach, unless the Board felt it appropriate to reach out to non-complying firms.

- Law School Data Collection – The Section produced a best practices memo for schools to use as a guide in collecting and reporting LGBT law student information. In 2011, the Section might consider reviewing the numbers, and tailor efforts to more accurately collect this demographic information.
- LGBT Resources – The Section drafted an article highlighting some on-line resources to assist career services professionals who are counseling LGBT law students. In 2011, the Section might consider redoubling its efforts to update the on-line resources available on the LGBT Section's NALP page.
- Lavender Law – The Section conducted a career-services panel discussion and provided career-counseling to the attendees of the National LGBT Bar Association Annual Conference (Lavender Law). The Section is scheduled to continue these programs and might consider working with the LGBT Bar Association administration to revise them to meet the needs of this year's expected attendees.
- Mentoring Program – The Section assisted the LGBT Bar Association of New York (LeGaL) in implementing a formal mentoring program. In 2011, the Section may consider finding one or more bar associations with whom it could partner in implementing other similar mentoring programs.

Please let me know if the Board has any questions or feedback regarding this report and/or other items it believes should be addressed by the GLBT Section.

Best,

*Jeff Becherer*

Jeff Becherer  
Chair, LGBT Section

cc: Fred Thrasher, NALP Deputy Director



## **“STAND UP AND BE COUNTED” CAMPAIGN**

Upon the recommendation of NALP’s Recruitment Practices Advisory Group, NALP will collect information from law schools on the number of students who identify as lesbian, gay, bisexual or transgender (LGBT). This information will then be reported in the next edition of NALP’s Directory of Law Schools (NDLS).

Because any demographic information that is self-reported is inherently subject to underreporting, and because this is the first year that law schools are being asked to collect this information, as well as because there tends to be a specific concern about privacy when asking individuals to reveal their sexual orientation and gender identity, the NALP LGBT Section has undertaken efforts to propose some “best practices” for collecting this information easily and accurately.

Based upon discussions with various law schools which have developed a strategy and/or have already begun collecting this information, the NALP LGBT Section proposes the following steps:

1. Request LGBT demographic information from your Admissions office (received via LSAC applications). This will provide you with some base number of self-identified LGBT students. Presumably, this number will be lower than the actual number;
2. Add language to students’ Symplicity profiles, allowing them to self-identify as lesbian, gay, bisexual or transgender. This can be accomplished by adding a “yes/no” check box next to the following statement: “I self-identify as lesbian, gay, bisexual or transgender”. (This change can be made in the “Forms” section of Symplicity.) A response to this question need not be mandatory;
3. Meet with OUTlaw group (or chair person(s)) to discuss the new collection efforts and encourage OUTlaw members to both self-identify (via Symplicity) and spread the word to non-OUTlaw members who might also self-identify;
4. Draft language to be used in publicity materials. Some potential language (always include a statement acknowledging the protection of confidentiality):

**TO: ALL STUDENTS**

**RE: “Stand Up And Be Counted”**

Every year, the National Association of Law Placement (NALP) collects demographic information on the composition of law school student bodies. In the past the information collected has included race, gender, age and ethnicity. This year, NALP is adding the number of students who self identify as lesbian, gay, bisexual & transgender (LGBT) for inclusion in the NALP Directory of Law Schools. This change brings the Directory of Schools in line with the Directory of Employers, which already provides information on the LGBT demographics of employees.

Please help [LAW SCHOOL] accurately report the demographic information of its student body by standing up and being counted. To ensure that you are counted accurately, please take a few moments to update your Symplicity profile, which allows you to report your demographic information, including the option of self-identifying as lesbian, gay, bisexual or transgender.

**Your confidentiality will be protected.** The [name of career services office] is the only office at the school with access to Symplicity and we do not share any demographic information regarding ethnicity or sexual orientation with faculty, administration or employers. NALP receives only aggregate numbers concerning the demographic characteristics of our student body. NALP does not receive any information that identifies the names of students along with their ethnicity or sexual orientation.

Demographic information is useful to many different groups, including prospective law students as well as employers. Please do your part in painting an accurate demographic picture of [LAW SCHOOL] – log on and update your Symplicity profile today.

5. Engage in publicity efforts (recurring, over the course of a couple weeks) to encourage all students to update their Symplicity profile demographic information, especially those who identify as LGBT:
  - Direct E-mails from OCS and/or Law School Administration (Dean, Dean of Students) to students and student groups
  - Facebook Page updates
  - Student Newspaper Article
  - Posters/Flyers
  
6. Report results to NALP by March 15th.



## NALP: The Association for Legal Career Professionals

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### NALP COMMENTS

Military Recruiting and the Status of Don't Ask Don't Tell on Law School Campuses

Posted by [Jeff Becherer](#) on Thursday, February 24, 2011

The NALP LGBT Section, of which I am Chair, has held numerous discussions among and between its members, with other Career Services personnel, the Association of American Law Schools, and with members of the LGBT Bar, regarding the question of what law school's OCS/CDO should "do" in light of the Don't Ask Don't Tell repeal. The collective wisdom has resoundingly been: **don't make any substantive changes to your recruiting policies just yet**. The Defense Department has not completed implementation & training commensurate with the Don't Ask Don't Tell repeal. In fact, they have not even returned inquiries from law school Career Services Offices regarding whether they will be interviewing LGBT students during their Spring recruitment visits. ([Jim Leipold's article in the February NALP Bulletin](#) discusses the issue further – member login is required.)

With that said, you may want to clarify your school's amelioration policy (ever so slightly) with language that reflects the current situation. For instance:

On December 22, 2010 President Obama signed a bill repealing the policy barring those who are openly gay, lesbian, or bisexual from military service. This policy, known as Don't Ask, Don't Tell, violates [SCHOOL] non-discrimination policy.

Despite the President's signature, the repeal will not go into effect until sixty (60) days after the President, the Secretary of Defense, and the Chairman of the Joint Chiefs of Staff certify that the repeal will not harm military readiness. Until that time, Don't Ask, Don't Tell remains in effect, and gay, lesbian or bisexual service members remain at risk for discharge.

While this is a temporary situation, the military's hiring practices continue to violate [SCHOOL'S] non-discrimination policy. This hiring practice creates an "excused" noncompliance with the by-laws and Executive Committee Regulations of the Association of American Law Schools, of which [SCHOOL] is a member. Permitting the JAG Corps to interview at the law school therefore should not be construed as an endorsement of the military's policy. To the contrary, [SCHOOL], like the AALS, is making this exception to its ordinary policies solely because, under the terms of federal legislation known as the Solomon Amendment, our failure to allow such on-campus interviews could result in the loss of student financial aid funds.

The LGBT Section continues to discuss this issue and may have additional recommendations in the coming weeks. Stay tuned to the NALP Blog for further information.

Finally, a "Hot Topics" session at the NALP conference (Friday, April 29th @ 1:45 PM) will discuss this issue and other topics related to the recent repeal of Don't Ask Don't Tell.

If anyone has questions, please don't hesitate to write or call Jeff Becherer, Chair, LGBT Section, [becherer@yu.edu](mailto:becherer@yu.edu) or (212) 790-0387.

Topics: [Career Counseling](#) [Diversity](#) [LGBT](#)

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Your Name\*

Comment\*



## AMELIORATIVE FUNDING

Below is information useful in 2011 advocating for continued amelioration supporting LGBT students. With "Don't Ask Don't Tell" repeal not yet fully implemented, and equality and non-discrimination far from our reality, these facts might be used when advocating for support (such as funding participation at Lavender Law).... feel free to borrow as suits your needs.

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Employment discrimination against LGBT workers remains pervasive. According to Lambda Legal (April 2011), it is legal in 29 states to fire or refuse to hire someone based on their sexual orientation. And, in 37 states, there is no statutory protection for gender identity.

Until the Employment Non-Discrimination Act is passed which will outlaw anti-LGBT discrimination in employment, ameliorative actions continue to be needed to counteract discrimination and inequalities.

The Williams Institute reports "gay men earn 10 to 23% less, on average, than heterosexual men, and children of same-sex couples are twice as likely to live in poverty. Rates of hate crimes and employment discrimination against LGBT people are similar or higher than those for other protected groups." It is common that LGBT workers are passed over for promotions, and best assignments, because of homophobia, or fear of homophobic reactions of clients.

Because of these facts, continued amelioration is vital for 2011.

The following is a partial list of law schools which have decided (as of April 2011) to continue ameliorative funding....

Boston U  
Cardozo  
Cornell  
Creighton  
Loyola New Orleans  
Marquette  
New York  
Northeastern  
Northwestern  
Roger Williams  
Santa Clara  
Seton Hall  
Southwestern  
Suffolk  
Touro  
U Arizona  
UC Irvine  
UCLA  
U Washington  
Washington U  
Washington & Lee  
William & Mary

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