NALP
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The Honorable Christine Durham
Council Chair

Hulett H. Askew
Consultant on Legal Education

Office of the Consultant on Legal Education
ABA Section of Legal Education and Admissions to the Bar
American Bar Association
321 N. Clark Street, 21st Floor
Chicago, IL 60654

Dear Madam Chief Justice and Mr. Askew,

I am writing on behalf of NALP and the NALP Board of Directors in response to your July 27 memo to law school deans and career services offices. The purpose of this letter is to convey NALP's strong objection to the actions taken by the Council with regard to the collection of law school employment data.

Based on your July 27 memo, NALP understands that beginning in February 2012, the ABA Annual Law School Questionnaire process will require that all law schools report individual student record level employment data to the ABA. This will, in effect, duplicate the research effort that NALP has successfully undertaken for the last 37 years. We object to this action on several grounds, including the fact it will actually lead to LESS transparency and information about the entry-level legal employment market and not more, and the fact that it is an action that is contrary to all of the public conversations about this issue that have taken place among the ABA, NALP, the law schools, and the public over the last year and a half.

This decision, made, as we understand it, by the Council's Executive Committee, without a vote by the entire Council, and without comment or input from the public, rejects the work and recommendation of the Section's own Questionnaire Committee, and ignores the mountain of evidence and testimony gathered in what has been a very deliberate process that included an open hearing held on this issue in Fort Lauderdale last December. It is also hostile to the cooperation

and collegiality the Section has long enjoyed with NALP, and lays waste to a year's worth of work between NALP and the Questionnaire Committee to prepare for what we had been led to believe would be a very different outcome.

One of the chief harms caused by this action is that it will require a dual reporting burden by the law schools, who now will be asked to report individual student record level employment data to both the ABA and NALP. One of the constant themes from nearly all of the law school representatives who testified at the Fort Lauderdale hearing was their plea not to add an additional data collection burden to the law school CSO offices, and specifically, the plea that the ABA not replicate a data collection process that NALP already undertakes. Law schools already spend a disproportionate amount of resources (resources of both time and money) to collect and report this data, resources that could otherwise be used to support law students and alumni in their career development. This new reporting obligation will require schools to devote even more resources to data collection and reporting. The new process will also waste scant ABA resources replicating a process that has long been in place. Worst, we fear, is that if schools are required to separately report employment outcomes to the ABA, there is a great risk that many of them will no longer report their data to NALP. This will inevitably lead to the reduction in the amount of information we have about the entry-level legal employment process, and will have the long-term effect of producing less transparency about the legal job market and not more.

Virtually everything we know as an industry about the entry-level legal employment market, and our ability to describe it, quantify it, and measure change, is based on the data that NALP has collected, analyzed, and published for the last 37 years. The action taken by the Executive Committee this week will erode NALP's ability to continue to provide this vital information and erode the current level of transparency. If schools are required to separately report employment outcomes to the ABA, there is a great likelihood that many of them will no longer report their data to NALP. The burden of dual reporting, with separate instruments, is indeed unreasonable, and while many schools will understand the theoretical benefit of doing so, as a practical matter, limited time, money, and staffing will prevent them from meeting this dual reporting obligation. For those schools that are able to meet the dual burden, it will drain resources that might otherwise be used to counsel and support students in their job search process.

NALP's data and analyses describing the entry-level legal employment market for new graduates are as valuable as they are because they are so comprehensive. For the Class of 2010, NALP has data from 93% of all law school graduates, submitted by 192 ABA accredited law schools. Since 1990 NALP has had data from more than 90% of all US law grads. A significant falloff in that coverage would vastly reduce NALP's ability to comprehensively describe the entry-level job market, or to provide the kinds of regional analyses of starting salaries and job placement that have been so helpful to all of the stakeholders in the industry, including the ABA itself.

The memo does not say whether the Section or the Council intends to also take on the comprehensive reporting of this data. The burden of doing so is enormous. For the Class of 2010,

for instance, NALP received over 500,000 pieces of raw data, used the raw data to calculate dozens of additional indicators per student record, performed more than 100 analyses of this data, and sent 192 law schools detailed school-specific employment reports of more than 20 pages each. The aggregated national employment data is published annually in a research monograph of more than 100 pages, and is supplemented by a separate 50-page monograph that provides additional analyses of the salary data for entry-level attorneys in all sectors. Much of this information is made available to the public free of charge on our website. This research effort takes six months of full-time effort by our director of research. It is not at all clear that the ABA Section staff has the capacity to take on this project, and yet, once the ABA begins collecting this data directly from law schools, NALP's ability to continue to do this will be lost. We fear that the long-term net result will be a permanent loss to the profession of our ability to measure, describe, and publicize with rigorous precision the employment outcomes of law school graduates.

The action taken by the Executive Committee also suggests a fundamental misunderstanding of current practices, notwithstanding my testimony to the Questionnaire Committee that clearly documented the current data collection practice. It has always been the case that schools collect individual student record level data from their students. The schools forward that data to NALP, stripped of individually identifying information, and NALP analyzes and summarizes it, and then sends the compiled school data back to the schools, and publishes the nationally aggregated data as consumer information. The schools then report their own data to the ABA, to *U.S. News*, and to others who request or require it. That has always been the case and would have continued to be the case under the course of action recommended by the Questionnaire Committee.

Based on conversations with the Committee, over the last year NALP undertook efforts to develop customized reports for each school that would have simply formatted the data schools already have (data they have collected, and data that we have analyzed and returned to them), and provided it back to the schools in the format required by the Questionnaire Committee. (We actually retained a consultant to help us meet the rigorous schedule set by the Committee to implement this new process this summer, and spent more than $15,000 in consulting fees in that process. We tested the reports with data from Questionnaire Committee members' schools, and they approved the newly formatted reports). Under this process, schools would still have been collecting their own students' data, and would have been reporting that directly to the ABA. We understand the Executive Committee's decision to have been motivated by its understanding that it was required to collect this employment outcome information directly from the law schools, rather than "relying on a third party to do so." We believe that under the system we had worked toward with the Questionnaire Committee, the Section would indeed have been collecting that data directly from the law schools, and not from a third party. NALP has never collected the data directly from students. The schools have always collected that data from students, and have always reported that data to the ABA, and they would have continued to do so under the plans towards which, up until yesterday, we were all working collaboratively toward achieving.

Finally, we object in the strongest terms possible to the Section's unlicensed use of NALP's research terms and definitions in its plan to collect student record level data directly from the schools. The ABA may well decide that it should survey schools directly about what happens to their students when they complete their legal education, but in order to do so the ABA must develop its own survey instrument and research terms. The actions of the Council's Executive Committee this week have effectively taken the intellectual property that NALP has developed over the last 37 years, used it as if it were its own property, and at the same time have effectively disabled NALP from using its own intellectual property by implementing a second and necessarily preemptive reporting duty on its accredited law schools.

NALP will be working with its member law schools, other stakeholders, and the press in the coming weeks to argue that the actions undertaken by the Council this week are detrimental and harmful to legal education, and will in the long term diminish the amount of information available about the legal employment market, and will in fact decrease transparency rather than increasing it at a time when the public pressure on legal education to increase transparency is intense.

We call on you to reconsider this decision and to honor the work and recommendations of your Questionnaire Committee.

Sincerely,

James G. Leipold
Executive Director

Marcelyn R. Cox
President