

GOVERNMENTAL AFFAIRS
OFFICE

DEPUTY DIRECTOR
Denise A. Cardman
(202) 662-1761
cardmand@staff.abanet.org

SENIOR LEGISLATIVE COUNSEL
R. Larson Frisby
(202) 662-1098
frisbyr@staff.abanet.org

Lillian B. Gaskin
(202) 662-1768
gaskinl@staff.abanet.org

LEGISLATIVE COUNSEL
Kristi Gaines
(202) 662-1763
gainesk@staff.abanet.org

Kenneth J. Goldsmith
(202) 662-1789
goldsmithk@staff.abanet.org

Kerry M. Lawrence
(202) 662-1766
lawrenck@staff.abanet.org

Ellen McBarnette
(202) 662-1767
mcbarnee@staff.abanet.org

E. Bruce Nicholson
(202) 662-1769
nicholsonb@staff.abanet.org

DIRECTOR GRASSROOTS
OPERATIONS/LEGISLATIVE COUNSEL
Julie M. Strandlie
(202) 662-1764
strandlj@staff.abanet.org

INTELLECTUAL PROPERTY
LAW CONSULTANT
Hayden Gregory
(202) 662-1772
gregoryh@staff.abanet.org

STATE LEGISLATIVE COUNSEL
Rita C. Aguilar
(202) 662-1780
aguilarr@staff.abanet.org

EXECUTIVE ASSISTANT
Julie Pasatiempo
(202) 662-1776
jpasatiempo@staff.abanet.org

STAFF DIRECTOR FOR
INFORMATION SERVICES
Sharon Greene
(202) 662-1014
greenes@staff.abanet.org

EDITOR WASHINGTON LETTER
Rhonda J. McMillion
(202) 662-1017

AMERICAN BAR ASSOCIATION

Governmental Affairs Office

740 Fifteenth Street, NW
Washington, DC 20005-1022
(202) 662-1760
FAX: (202) 662-1762

April 24, 2008

The Honorable Edward M. Kennedy, Chair
Senate Committee on Health, Education,
Labor, and Pensions
The United States Senate
Washington, DC 20510-6300

The Honorable Michael B. Enzi, Ranking
Member
Senate Committee on Health, Education,
Labor, and Pensions
The United States Senate
Washington, DC 20510

The Honorable George Miller, Chairman
Committee on Education and Labor
The United States House of
Representatives
Washington, DC 20510

The Honorable Howard P. "Buck" McKeon,
Ranking Member
Committee on Education and Labor
The United States House of Representatives
Washington, DC 20510

Dear Chairmen and Ranking Members:

We applaud you for your leadership in shepherding the Higher Education Act to this point, the closest it has come to full reauthorization in several Congresses. In addition to the other issues of importance we have discussed with you earlier this Congress, we wish to bring once more an issue regarding access to educational opportunity to your attention. I urge you to consider this opportunity to address the needless loss of educational opportunity for the many potential students who have had past convictions for offenses involving controlled substances commonly known as the Souder Amendment, see 20 USC 1091(r).

The American Bar Association opposes policies that use discrimination against former substance abusers or those in treatment as a deterrent or punishment. Studies have shown that education is an effective means to aid individuals in combating substance addiction and in alleviating the socio-economic conditions that can impede recovery. We have determined that people with drug convictions in their past but who no longer use nor traffic in controlled substances should not be denied government aid for education.

Prior to the passage of the Souder Amendment, decisions as to whether punishment of an individual felon warranted restriction of that person's access to taxpayer funded financial aid assistance rested on the judicial official deciding that particular case. That individualized attention, with its attendant prosecutorial and judicial discretion, remains the best manner by which these cases should be determined.

Hence, we support the S. 2767, introduced by Senator Christopher Dodd (D-CT), which would allow judges to consider the individual circumstances, with input from both prosecutor and the defense, to decide whether or not denial of aid in each particular case is appropriate punishment, in light of other sanctions.

Since its passage, the Souder Amendment has served as a form of second punishment for individuals who had already been subject to criminal sanction and, in many cases, other civil sanction. According to the Department of Education, over 200,000 individuals have suffered this second punishment. As you know, rejection under the terms of the Amendment can also mean loss of access to state and private aid. It has created a gap in access to educational advancement between those with means to pay for their own education, despite prior convictions, and those who, though once convicted of the same or similar crimes, cannot afford an education without assistance.

Each denial of aid constitutes a blow against the individual, their families and their communities. This loss has a multiplier effect throughout our economy. The effect can be permanent; today, a college degree can be the difference between a successful taxpaying member in the middle class and a person suffering long-term dependence on government assistance.

While progress in reducing the number of students blocked by this penalty was made in the 109th Congress, many aspiring students are still being denied the second chance that higher education can provide.

I urge you to take this opportunity to fix this access gap in the conference on the Higher Education Act reauthorization bills, S. 1642 and H.R. 4137, the Higher Education Amendments of 2007 and the College Opportunity and Affordability Act of 2008 by accepting the language of S. 2767 in place of current technical amendments to the Souder Amendment language.

Thank you for taking our concerns into consideration.

Sincerely,

A handwritten signature in cursive script that reads "Denise A. Cardman". The signature is written in black ink and is positioned below the word "Sincerely,".

Denise A. Cardman
Acting Director

cc: Members of the House Committee on Education and Labor
Members of the Senate Committee on Health, Education, Labor, and Pensions