

AMERICAN BAR ASSOCIATION

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October 8, 2009

The Honorable Tom Harkin, Chairman
The Honorable Michael Enzi, Ranking Member
Committee on Health, Education, Labor and Pensions
428 Dirksen Russell Senate Office Building
Washington, DC 20510

Dear Chairman Harkin and Ranking Member Enzi:

The American Bar Association has a longstanding commitment to an effective, federally funded legal services program and has frequently expressed its views on related matters to Congressional committees. We write at this time to provide the ABA's evaluation of the qualifications of five individuals nominated by the White House in August 2009 to serve on the Legal Services Corporation Board of Directors.

In 1989, the ABA House of Delegates unanimously adopted, as Association policy, criteria that the ABA urges this Committee and the Senate to apply in considering nominees to the LSC Board of Directors. The criteria were derived from the principles and responsibilities set forth in the Legal Services Corporation Act. The criteria are:

1. All persons considered for nomination should be free of all conflict, or the appearance of such conflict, with the existence and function of the Corporation or the representation of poor persons in legal matters, so that they may act and may be perceived to act with objectivity and fairness;
2. All nominees should support and demonstrate a high order of commitment to the continued existence and the effective operation of the Legal Services Corporation;
3. Those nominated should be committed to the freedom of the Legal Services Corporation, its operation and its grantees from political control;
4. Potential board members should provide assurance that they understand and are fully committed to the role of legal services attorneys and support the underlying principle of the Legal Services Corporation Act that it is in the national interest that the poor have full access under law to comprehensive and effective legal services; and
5. The Board of Directors as finally constituted should be adequately representative of the organized bar, legal education, legal services attorneys, the clients to be served, and organizations involved in the development of legal assistance for the poor.

Subsequent to the House of Delegates policy adoption, the ABA Board of Governors authorized the ABA president or designee to express to the U.S. Senate the Association's support or opposition with respect to individuals nominated to serve on the Legal Services Corporation Board. Such support or opposition is to be based on the evaluation of the individuals by the ABA Standing Committee on Legal Aid and Indigent Defendants (SCLAID) in accordance with the five criteria stated above. SCLAID conducted evaluations of nominees to the LSC Board in

1993, 2003, 2006 and earlier in 2009, and submitted the ABA's recommendation to this Committee.

For the current nominees, pursuant to previously established procedures, SCLAID formed a subcommittee to conduct an evaluation. The subcommittee did not include anyone who works for an LSC-funded legal services program, or who has a conflict of interest regarding LSC. The subcommittee did not participate in any efforts to identify or suggest individuals for nomination to the LSC Board. Each nominee was notified that the ABA conducts nominee evaluations and was asked to complete a questionnaire concerning her or his background, experience, and views. Subcommittee members were then assigned to evaluate each nominee with regard to the ABA criteria. The subcommittee members reviewed available written materials about the nominee, conducted confidential interviews with people knowledgeable about the nominee, and interviewed each nominee. The subcommittee then convened and considered whether each nominee conformed to the ABA criteria set forth above.

Based upon its investigations and deliberations, the recommendations of the ABA are as follows for those individuals who have been nominated to serve as members of the Legal Services Corporations Board of Directors:

The ABA supports the confirmation of **Robert J. Grey, Jr.**, of Richmond, VA, who has demonstrated views and qualifications that are fully consistent with the ABA criteria set forth above. (SCLAID notes that Mr. Grey is a past-president of the ABA, and past member of SCLAID. For those reasons, the investigators selected to review his credentials do not have past or current personal or professional associations with this nominee. He was evaluated, as were all other nominees, solely on the basis of SCLAID's findings concerning his qualifications under the objective criteria for LSC Board nominees adopted by the ABA);

The ABA supports the confirmation of **John G. Levi** of Chicago, IL, who has demonstrated views and qualifications that are fully consistent with the ABA criteria set forth above;

The ABA supports the confirmation of **Martha L. Minow** of Cambridge, MA, who has demonstrated views and qualifications that are fully consistent with the ABA criteria set forth above;

The ABA supports the confirmation of **Julie A. Reiskin** of Denver, CO, who has demonstrated views and qualifications that are fully consistent with the ABA criteria set forth above, and;

The ABA supports the confirmation of **Gloria Valencia-Weber** of Albuquerque, NM, who has demonstrated views and qualifications that are fully consistent with the ABA criteria set forth above.

The American Bar Association was unable to fully assess whether the prospective Board is, in accordance with the ABA's fifth criteria, adequately representative of various interested groups. Effective governance of the LSC requires a diverse Board that is representative of various constituencies. Because all nominations have not been made to date, it is not yet possible to evaluate the Board as a whole. When nominations have been made to complete the LSC Board,

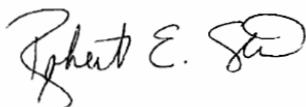
the ABA will conduct evaluations of those nominees and will at that time address the question of whether the Board as a whole conforms to the fifth ABA criteria.

The ABA appreciates this Committee's great interest in and support for the legal services program and hopes that the information provided will be helpful to you as you consider these nominations. If you have any further questions about these nominees we will endeavor to answer them as quickly as we can.

Yours Truly,



Carolyn B. Lamm, President
American Bar Association



Robert E. Stein, Chair
Standing Committee on Legal Aid and Indigent Defendants

cc: Daniel Goldberg, Counsel to Senator Tom Harkin
Christine Leonard – Senate Help Committee, Majority Counsel Staff
Janice Kaguyutan – Senate Help Committee, Majority Counsel
Frank Macchiarola – Senate Help Committee, Minority Staff Director
Greg Dean, Senate HELP Committee, Minority General Counsel