

September 18, 2009

The Honorable Barbara A. Mikulski
Chairwoman
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Committee on Appropriations
SD-144
United States Senate
Washington, D.C. 20510

The Honorable Alan B. Mollohan
Chairman
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
Room H-310, The Capitol
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Richard C. Shelby
Ranking Member
Subcommittee on Commerce, Justice,
Science, and Related Agencies
Committee on Appropriations
SH-123
United States Senate
Washington, D.C. 20510

The Honorable Frank R. Wolf
Ranking Member
Subcommittee on Commerce, Justice,
Science and Related Agencies
Committee on Appropriations
1016 Longworth HOB
U.S. House of Representatives
Washington, D.C. 20515

Dear Senators Mikulski and Shelby and Representatives Mollohan and Wolf:

As groups dedicated to the expansion of access to justice for the most vulnerable Americans, we write to thank you for the support for civil legal services you have shown over the years and the support reflected in your marks of the FY 2010 Commerce-Justice-Science (“CJS”) appropriations bills. We urge you to seize this moment of widespread recognition of the importance of legal aid, and help address the unprecedented level of legal need in this country, by adopting final language in the CJS conference committee that would partially repeal the restriction on the state, local and private funds of Legal Services Corporation (“LSC”) recipients.

As you know, a rider has been placed on LSC’s annual federal appropriation since 1996 that limits both the tools LSC-funded legal services providers can use when representing eligible clients and the types of clients those providers can represent. Families and communities across the country are suffering because of the restrictions: communities are hamstrung in their ability to combat predatory lending practices because legal aid clients cannot participate in class actions; victims of consumer fraud and illegal housing practices are placed at a disadvantage because LSC-funded attorneys cannot seek attorneys’ fees; and those most knowledgeable about issues critical to low-income clients cannot engage themselves in legislative and administrative reform efforts.

The most onerous provision of the restrictions extends their control to LSC grantees’ non-LSC money. This restriction on state, local, private, and other funds creates waste and inefficiency throughout the legal aid delivery system that is unconscionable at this time of such tremendous need. Nationally, only 40 percent of LSC grantees’ total funds come from LSC, yet the restrictions extend federal control to the other 60 percent as well. An unparalleled federal overreach, this restriction on non-LSC funds prevents programs from using their revenue in a manner consistent with their funders’ wishes.

As you know, the House-passed CJS bill would repeal the prohibition on LSC-funded providers seeking attorneys' fees. The bill that the Senate Appropriations Committee has passed would repeal a good part of the most onerous restriction, the restriction on non-federal funds, while leaving in place all restrictions on federal funds. The Senate language also leaves intact the current restrictions prohibiting representation in abortion-related litigation and litigation on behalf of people in prison for all cases, even those financed with non-federal dollars. When these two CJS bills go to conference, we urge that the repeal of the restriction on non-federal funds be included in the final language, along with the repeal of the restriction on seeking attorneys' fees that was passed by the House.

President Obama, in his FY 2010 detailed budget, called for the repeal of the non-LSC funds restriction and has since reiterated this call in his "Statement of Administrative Policy" on the House CJS bill and most recently in his statement on the 35th anniversary of LSC. Numerous Members of Congress have also signed onto letters urging the rollback of the restrictions.

This year, given the tremendous progress that both Appropriations Committees have made on the issue, and the widespread Congressional and Administrative support, a unique moment exists to accomplish this no-cost policy fix. As conferees on the FY 2010 CJS appropriations bill, we urge you to preserve the Senate's language repealing the non-federal funds restriction while also maintaining the House's \$440 million LSC funding appropriation and removing the attorneys' fee restriction. Such a change would go a long way toward closing this country's ever-widening justice gap.

Sincerely,

AARP	Leadership Conference on Civil Rights
Alliance for Justice	National Association of IOLTA Programs
American Civil Liberties Union	National Committee for Responsive Philanthropy
Asian American Legal Defense and Education Fund	National Legal Aid & Defender Association
Brennan Center for Justice at NYU School of Law	OMB Watch
Center for Law and Social Policy	Poverty & Race Research Action Council
Center for Lobbying in the Public Interest	Sargent Shriver National Center on Poverty Law
Equal Justice Works	Service Employees International Union
Independent Sector	UAW Local 2320, National Organization of Legal Services Workers, and UAW International

Cc: Representative David R. Obey, Committee on Appropriations
Representative Jerry Lewis, Committee on Appropriations
Senator Daniel K. Inouye, Committee on Appropriations
Senator Member Thad Cochran, Committee on Appropriations