

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a bold, serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

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January 24, 2008

Hon. Harry Reid  
Senate Majority Leader  
528 Hart Senate Office Building  
Washington, D.C. 20510

Hon. Nancy Pelosi  
Speaker of the House of Representatives  
235 Cannon House Office Building  
Washington, D.C. 20515

Hon. Mitch McConnell  
Senate Minority Leader  
361-A Russell Senate Office Building  
Washington, DC 20510

Hon. John Boehner  
House Republican Leader  
1011 Longworth House Office Building  
Washington, D.C. 20515

Dear Majority Leader Reid, Minority Leader McConnell, Speaker Pelosi & Republican Leader Boehner:

I write to you on behalf of the Association of the Bar of the City of New York and its Pro Bono and Legal Services Committee to ask Congress to repeal the appropriations restriction that limits how Legal Services Corporation grantees may spend their funds from state and local governments as well as private donors. The restriction on state, local and private funds -- renewed each year since 1996 as a rider to the Commerce, Justice, and Science appropriation that funds LSC-- has deprived countless New Yorkers of desperately needed legal representation, has deterred private funders from donating to LSC-funded organizations, and has obstructed state and city efforts to deliver civil legal aid.

Since 1996, LSC-funded organizations, which provide free civil legal services to low-income families throughout the country, have been barred from using any LSC funding to engage in critical activities on behalf of their clients, including class action suits, seeking attorney fees, and representing certain documented and all undocumented immigrants. But, in a virtually unprecedented step, Congress has also restricted services paid for entirely with non-LSC funds. Thus, even if a local legal aid program, such as Legal Services for New York City ("LSNY"), receives only one-third of its money from LSC, its other state, local and private funds are nonetheless restricted.

The only way for a legal aid program to perform work barred by the restrictions is to create a new, privately funded organization with separate staff and separate offices, a requirement so expensive that hardly any organizations have been able to meet it. As a result, in most of the country, where such dual programs have not arisen, the restriction reduces the number of people who can be served and stifles the voices of foundations, local governments, and individuals, who would otherwise choose to fund advocacy they believe would accomplish greater results for more people in the low income communities in which services are provided. In those cases where separate offices have been created, LSC and other legal services dollars are funding duplicative infrastructure and administrative costs; as a result, precious funds that could go to serving more clients are being squandered.

The restrictions have led to other harmful consequences. For example, in New York City, LSNY receives state and local funds to assist domestic violence victims. Yet, because of the restriction, LSNY attorneys may not use those non-LSC funds to seek attorneys' fees when an abuser repeatedly flouts court orders. LSNY offices have also received substantial non-LSC funding to combat the tide of mortgage foreclosures wreaking havoc in many parts of Brooklyn, Queens and Staten Island. Yet, because of the restriction, attorneys cannot use these funds to certify class actions or seek attorneys' fees – critical legal tools for stopping predatory lending schemes.

The community's ability to assist immigrants and their children has been sharply curtailed by the restriction. For example, a local anti-poverty foundation has funded LSNY's participation in an innovative program to provide legal assistance and social services together at outreach sites in community-based organizations around the city. Concerned about the needs of New York's large immigrant population, the foundation began making grants to provide legal assistance to immigrants regardless of immigration status. Because of the restriction on private money, however, LSNY could not seek the added funding from the foundation to expand this successful community-based outreach program.

The restriction on state, local and private funds is also an anachronism. When the forerunner to the Legal Services Corporation was created in 1966, the federal government provided nearly all of the funding for civil legal services. Over the years, as federal funding has been cut and as the need has increased, legal services providers have diversified their funding. Now only about one-half of the funding of LSC-funded programs comes from LSC. In New York City, LSNY receives only one-third of its funds from LSC. This diversification is a good thing, because it means that many more stakeholders –local and state governments, foundations, and private citizens—have become aware of and support the work. But it also means that a smaller and smaller portion of the overall funds, that provided by LSC, dictates the ways in which all of the legal services dollars are spent. Such a situation is inherently unjust.

Fortunately, the solution to this problem is cost-free. With a change in the rider to the CJS appropriation, local legal aid organizations would be able to use their non-LSC funds freely, but the restrictions would continue to apply fully to the money they receive from LSC. We urge that this burdensome restriction be removed in the next appropriations cycle.

Thank you for your consideration.

Sincerely,



Barry Kamins

cc: Hon. Robert C. Byrd  
 Hon. Dave Obey  
 Hon. Barbara Mikulski  
 Hon. Alan Mollohan  
 Hon. Edward Kennedy  
 Hon. Linda Sanchez  
 Hon. Hillary Rodham Clinton  
 Hon. Charles E. Schumer  
 New York Delegation