

AAUP

American Association of University Professors

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Academic Freedom for a Free Society

Senator Ann Duplessis,

Chair, Commerce, Consumer Protection, and International Affairs Committee

May 14, 2010

Dear Senator Duplessis,

I write to you regarding Senate Bill 549, which would prohibit student law clinics at any state or private university that receives state funding from suing government agencies. The bill also would forbid clinics from suing individuals and businesses for financial damages and would ban student practitioners from raising constitutional challenges on behalf of their clients.

Passage of this bill would constitute a serious violation of academic freedom in each of Louisiana's law schools. It threatens to interfere with the ways in which Louisiana's law schools serve and engage with numerous constituencies in the state and beyond. It also discriminates against the poorest and most vulnerable citizens of the state. Senate Bill 549 would not prevent all Louisiana citizens from filing suit against the government or from seeking damages from a person or corporation—only those citizens who are too poor to afford attorneys and who therefore seek the *pro bono* services of Louisiana's law school clinics.

Senate Bill 549 stipulates that any violation of the bill as it is currently drafted “will result in the forfeiture of all state funding to the university for that fiscal year.” Without question, this provision will have a crippling effect on the clinical programs at Louisiana's four law schools (Louisiana State University, Loyola University, Southern University, and Tulane University). The opportunities and experience provided to student practitioners through legal clinics are absolutely essential to a quality legal education.

Forcing universities to choose between providing the best possible legal education to their students and receiving state funding calls into question the legislature's commitment to quality education. Forcing universities to choose between providing access to justice to members of the community and receiving state funding calls into question the legislature's commitment to justice for all of its citizens.

Senate Bill 549 calls for all university law clinics to be subject to oversight by the House Committee on Commerce and the Senate Committee on Commerce, Consumer Protection, and International Affairs. Currently, the Louisiana Supreme Court supervises law clinics. This additional regulation is unnecessary and would serve to politicize legal education in the state. The bill's sponsors have publicly declared their allegiance to Louisiana's oil and gas lobby; they state their belief that a number of successful lawsuits at a particular university's legal clinic have interfered with the growth of business in the state, and they proudly assert that the passage of this bill will preclude such interference from occurring again.

The public interest is not served by state legislatures seeking to dictate academic programs and activities in this manner. Indeed, such actions run counter to basic American values regarding government control of the academic curriculum. They run counter to the distinctive history of service by American colleges and universities to their communities. Passage of this bill would undermine the substantial benefit to society provided by U.S. universities, and the professors and academic professionals employed there, when they engage freely in outreach and public service. At the core of the American Association of University Professors' commitment to academic freedom since 1915 is the principle that society is best-served when universities, professors, and students are protected from politically motivated efforts to legislate academic work. The AAUP has over 45,000 members, including many in colleges and universities in Louisiana, and has played a central role in supporting the principles of academic freedom that are so central to our democracy.

British Petroleum's most recent oil spill in the Gulf Coast could prove to be both economically and ecologically disastrous for the state of Louisiana and its citizens. Tragedies like this should make it clear to the legislature that high amongst Louisiana's public policy priorities should be a clean environment and honest businesses. Louisiana's law students, through their clinical work, have demonstrated remarkable intrepidity in their quests to hold businesses accountable and protect the environment. "Handicapping" a university budget, because the state's law schools dare to provide a quality legal education, while representing the legal interest of some of the state's most vulnerable populations, is most certainly not in the public interest.

The introduction of this bill suggests an unfortunate political agenda that undermines academic freedom, academic quality, and the ability of higher-education institutions to serve their communities. It runs counter to the pattern in the last twenty-five years of colleges and universities becoming more engaged with and responsive to both private and non-profit sector interests. Ironically, in focusing on legal clinics the legislature has overlooked other university programs, units, and professional schools that serve a broad range of private concerns and interests. Business schools, economics departments,

engineering schools, and medical schools all use public monies for centers and programs that educate future members of their respective industries.

Passing this bill would deny thousands of law students the opportunity to benefit from a thorough and quality legal education in the state of Louisiana. Passage of this bill would run directly counter to nearly 100 years of policy and practice with regard to academic freedom, which protects academics and institutions from political bias introduced through government intrusion. And it would run counter to the public interest.

I therefore strongly urge you to vote down this punitive bill and to ensure that such a destructive bill does not make its way out of your committee. By doing so, you will best serve the citizens of Louisiana and the well regarded law schools and legal clinics that serve them.

Respectfully yours,

A handwritten signature in black ink, appearing to read "Gary Rhoades", with a large, sweeping flourish at the end.

Gary Rhoades, General Secretary, AAUP

Cc: Senator A.G. Crowe
Senator John A. Alario, Jr.
Senator Conrad Appel
Senator Norby Chabert
Senator "Nick" Gautreaux
Senator Daniel "Danny" Martiny
Senator Michael J. "Mike" Michot
Senator Francis Thompson
Senator Karen Carter Peterson
Brian Bromberger, Dean, Loyola University New Orleans School of Law
Scott Cowen, President, Tulane University
Stephen M. Griffin, Interim Dean, Tulane University School of Law
Kofi Lomotey, Chancellor, Southern University
Mike Martin, Chancellor, Louisiana State University
Freddie Pitcher, Jr. Chancellor, Southern University Law Center
Jack Weiss, Chancellor, Louisiana State University Law Center
Rev. Kevin Wildes, S.J., President, Loyola University New Orleans