

Law schools resisting policy - Local, national groups fight law tying funding to military recruiting

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Editor's note: Part two of a two-part series on military recruiting at law schools. Friday: Recruiting at Stanford. Today: National reform efforts.

The 162 institutions belonging to the American Association of Law Schools, including Stanford, have pledged to bar from campus employment recruiters who discriminate by sexual orientation.

Students at these same institutions receive millions of dollars in Perkin's loans and work-study annually, aid which is tied to a congressional demand to allow the military to recruit on campus.

These two policies conflict, because the military, which will not hire openly gay individuals, violates the nondiscrimination policies of the law schools. Thus law schools are forced to choose between their nondiscrimination policies and aid for their students.

The policy "forces schools to pick between two disadvantaged groups: those who are denied career opportunities solely on the basis of sexual orientation and those who depend on financial aid to pursue a professional education," said Stanford Law Prof. Deborah Rhode, former president of the American Association of Law Schools.

As detailed in Friday's article, Stanford Law School has used a number of different tactics to avoid making a direct decision. But Stanford is not alone in its attempts to subvert the linkage of aid to military recruitment, a linkage spelled out in congressional legislation known as the Solomon Amendment.

In addition to localized efforts at schools like Stanford, various organizations and political leaders are conducting a national campaign to repeal all or part of the amendment.

Localized efforts

As at Stanford, most law schools have to face the direct dilemma of

how to react to the congressionally-mandated imposition of military recruiters.

Few law schools have come out in direct defiance of the amendment, which was adopted in 1996. One of the few that has is New York University Law School. The school, which has outright refused to allow military recruiters on campus, has not had its federal funding adversely affected, according to the Chronicle of Higher Education.

Most law schools have taken the middle road, however, allowing some measure of military recruiting on campus but making clear their displeasure and taking compensatory actions to support gay and lesbian students.

Harvard Law School, for example, will allow the recruiters on campus but will not allow them the use of its career development center.

At Stanford, the Law School has adopted a policy that requires a minimum level of student interest before allowing recruiters to interview on its facilities.

According to Law School Dean Paul Brest, "we simply haven't had the interest," and thus military recruiters have been turned away without the school invoking the nondiscrimination policy.

The American Association of Law Schools, which claims about 90 percent of American law schools as members, allows schools to make exceptions to its nondiscrimination policy to comply with the amendment. But it urges schools that do so "to be sensitive to the need for creative and effective amelioration strategies," including posting signs and letters that state that the schools do not condone the military's policy and supporting gay and lesbian forums and student groups.

Political remedies

Reps. Tom Campbell (R-Calif.) and Barney Frank (D-Mass.) are proposing an amendment that would repeal the portion of the amendment that denies financial aid to schools that bar military recruiting on campus.

"A student ought not be denied financial assistance just because of the military's policy," said Campbell, a Stanford law professor.

Alan Drexel, former president of Outlaw, Stanford Law Students for

Lesbian, Gay and Bisexual Equality, agreed that "we were making victims of students that happened to attend institutions that took a principled stand."

The Campbell-Frank Amendment would allow for the return of the financial aid portion of the federal funding for schools that turn away military recruiters but would leave in place other restrictions. Universities that turn away the military would continue to be denied non-financial aid funding like Defense Department grants.

"One can argue more persuasively that if the Stanford Physics Department wants to accept funding, it has to allow recruiting, but you can't make the same argument for student financial aid," Campbell said.

By taking this middle approach, the amendment is, in Campbell's words, "a rifle shot rather than an assault weapon."

Campbell has high hopes for the amendment, which will be introduced with the Defense Department Authorization bill next month.

"I've been talking to a number of moderate Republicans, and there's a lot of support out there, because this supports universities," Campbell said.

On-campus activism

Students and faculty around the country are taking an active approach in support of congressional efforts to overturn the Solomon Amendment, from filing lawsuits to bringing in speakers to sending letters.

"The success of such legislation is likely to depend on the legal profession's ability to inspire broad-based support from within and without the bar," Rhode said.

Some faculty and students, of course, disagree with the American Association of Law Schools and other groups' objection to the Solomon Amendment. Oklahoma City University Law Prof. Dennis Arrow called the association a "minority faction emanating from small and inbred communities, the party-line types [who] have expressed outrage that Congress might be so bold as to overrule a cherished AALS regulation."

He argued that it is more wrong for the association to insist that schools

not allow discriminatory recruiters than it is for the government to insist that military recruiters have access to campuses.

Despite assertions like Arrow's, protest against the Solomon Amendment has been strong.

Last month, three student groups at the University of Vermont filed a lawsuit to overturn the restrictions imposed by the Solomon Amendment. The lawsuit argues that the University of Vermont, which like Stanford Law School prohibits discriminatory recruiters on campus, should not be forced to host military recruiters.

In addition, more than 100 law professors have signed on to a national letter-writing campaign to support the Solomon Amendment's repeal, according to the Chronicle of Higher Education.

At Stanford, Outlaw has organized a number of events to protest the government's military recruitment mandates. It invited Frank, a strong gay-rights supporter, to speak in October. Frank's speech called for the repeal of the Solomon Amendment.

"We elevated this issue for Barney, and he issued us a call to action," Drexel said.

In response to Frank's call for political activism, Outlaw drafted several letters to congressmen condemning the Solomon Amendment. The letters state that "the Solomon Amendment is misguided and conflicts with America's basic commitment to equality of opportunity for all citizens" and promise to support members of Congress who back the amendment's repeal.

Outlaw held a "bake sale for justice" in February, which combined cookie-buying and letter-sending. According to Drexel, the effort resulted in the sending of more than 60 letters.

Drexel plans to post the letters on Outlaw's Web site in the hopes that other organizations at other universities will follow Stanford's lead.

According to Rhode, such letters are "critical" to successfully disassociating financial aid and military recruiting.

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