

Memorandum in Support
“Ban the Box” on College Applications
State University of New York Board of Trustees Hearing
May 4, 2016

NYSBA #26

May 3, 2016

A. 3363
S. 969

By: M of A Peoples-Stokes
By: Senator Montgomery

Assembly Committee: Correction
Senate Committee: Crime Victims, Crime and
Correction
Effective: Immediately

AN ACT to amend the correction law and the executive law, in relation to college admission for persons previously convicted of one or more criminal offenses

In 2012 the New York State Bar Association (NYSBA) established a Special Committee on Reentry. Over the past three years this committee researched and studied issues relating to reentry and reintegration for people with criminal history records.

The goal of this Special Committee was to develop a report and recommendations including a consideration of the collateral consequences that can have an impact on reentry regarding education, housing, employment, medical health, mental health and juveniles. On January 29, 2016 the NYSBA House of Delegates adopted the report and recommendations of the Special Committee. (Available online at www.nysba.org/ReEntryReport).

The report identifies some of the best practices to ensure productive lives and minimize the risk of recidivism for people with criminal history records. One of the key areas the Special Committee studied was education. A significant recommendation was to ban the use of the criminal history box on college applications, and more specifically NYSBA supported adoption of the Fair Access to Education Act (S.969 and A.3363), a bill pending in the New York Legislature that would amend the Correction Law and Executive Law to make it an unlawful discriminatory practice for any college or university in New York to ask about or consider an applicant’s past arrest or convictions during the application and admission decision-making process.

While the Fair Access to Education Act has not yet been enacted, consistent with the NYSBA endorsement of that bill, we urge SUNY to take a leadership role and adopt “ban the box” as official SUNY policy for all SUNY campuses.

Adoption of “ban the box” would make SUNY’s admissions policy consistent with SUNY mission “to provide the people of the State of New York educational services of the highest quality, with the broadest possible access, fully representative of all segments of the population...”

As NYSBA has pointed out in its Report, there is simply no empirical evidence to show that criminal history screening makes college campuses any more safe. What we do know is that criminal history screening does disproportionately fall on college applicants of color, thus undermining their access to educational opportunities and consequently suffering diminished life chances, and increasing both the racial and economic divide. What we also know is that opening upon access to education does help to make the community-at-large more safe by reducing recidivism and increasing employment and other life chances.

As noted in the NYSBA Report:

Once a person makes the decision to move forward with his or her education, that person should be considered a part of the solution. Many people will take advantage of the opportunity and take a pathway to successful reintegration if given the chance. It is our responsibility as a society to provide a means for these individuals to do so, for if we do nothing the cost will be heavy. The road to public safety frequently runs through the classroom, and our failure to chart that course will mean that thousands of our fellow citizens will remain jobless, dependent, incarcerated and poor, and all of our economic and social well-being will be jeopardized.

We have made terrible mistakes over the past four decades with our criminal justice policy, creating “mass incarceration” and “mass criminalization.” We make it that much more difficult to recover from the devastation that these policies have wrought, if institutions of higher education employ policies that compound the problem and widen the divide in our state racially, ethnically and economically.

We urge SUNY to ban the box on its admission application and join with CUNY as a national leader committed to an admissions policy that does not disadvantage applicants with prior criminal history records.