

Congress of the United States
Washington, DC 20515

April 20, 2016

President Barack H. Obama
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We write to commend the unprecedented efforts undertaken by your Administration to support formerly-incarcerated individuals' successful reentry into society. We also write to ask for your continued leadership on this issue, especially as it relates to "banning the box," or removing questions about an individual's criminal history from the early stages of the hiring process.

We are grateful for your leadership in supporting individuals reentering their communities. Specifically, we laud the reentry grants awarded by the Department of Education to support the education and successful reintegration of individuals who have been incarcerated. We also applaud the recent announcement by the Department of Housing and Urban Development that when a housing provider imposes a blanket ban on individuals with a criminal history, it has a disparate impact on the basis of race, and is a violation of the Fair Housing Act.

On November 2, 2015, we were also pleased to hear you state that you were "taking action to 'ban the box' for the most competitive jobs at federal agencies" and that you believed the federal government "should not use criminal history to screen out applicants before we even look at their qualifications."¹ Since then, you have undertaken an important effort by promoting the Fair Chance Business Pledge, which recognizes private sector employers such as Starbucks, Uber, and Under Armour, for taking steps to eliminate employment barriers for formerly-incarcerated persons.

As we move toward National Reentry Week, we write to ask that your Administration take additional action soon to solidify ban the box policies at the federal level.

First, as recommended by the Federal Interagency Reentry Council in June 2013, we ask that the Office of Personnel Management (OPM) "make the federal government a model employer" by issuing regulations that adopt the ban the box policy.² In that endeavor, we urge OPM to ensure that federal agencies fully incorporate the 2012 arrest and conviction enforcement guidance issued by the U.S. Equal Employment Opportunity Commission (EEOC) into the federal hiring

¹ President Barack Obama, *Remarks on Criminal Justice Reform at Rutgers University* (Nov. 2, 2015).

² Federal Interagency Reentry Council, *Employment* (Aug. 2015) (online at csgjusticecenter.org/wp-content/uploads/2014/06/Employment.pdf).

process. The EEOC guidance encourages employers to use a “targeted screen” and individual assessment to prevent the exclusion of qualified applicants or employees with a criminal background and eliminate disparate impact.³ As you know, as many as one in three Americans have some type of criminal record and each year more than 600,000 inmates are released from federal and state prisons.⁴ Another nine million cycle through local jails.⁵ These stark numbers underscore the need for programs to help reintegrate individuals who have been incarcerated into their communities. Studies confirm that sustained employment of the formerly incarcerated reduces recidivism, thereby strengthening public safety.⁶

Second, we ask you to promote fair chance hiring by taking executive action to extend ban the box policies to federal contractors. To date, twenty-two states and more than 100 localities have taken steps to remove barriers to employment for ex-offenders, including seven states, the District of Columbia, and twelve cities and counties whose policies reach private employers.⁷ Additionally, companies like Starbucks, Home Depot, Target, Bed Bath & Beyond, institutions like Johns Hopkins University, and many more entities have led the way in implementing fair chance hiring policies. As you know, federal contractors employ nearly 25 percent of the nation’s workforce.⁸ Your Administration has the opportunity to drive fair chance hiring policies forward by making it clear that companies contracting with the federal government must also implement these policies.

On November 2, 2015, you also explained that “Congress should pass legislation that builds on today’s announcement.”⁹ We agree, and have been working diligently with our colleagues in Congress to advance the Fair Chance Act (H.R. 3470), which would extend ban the box policies to all three branches of the federal government and prime federal contractors. However, without a clear path forward for the legislation, we are respectfully calling upon you to drive these issues forward with executive action.

³ U.S. Equal Employment Opportunity Commission, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964*, as amended, 42 U.S.C. § 2000e et seq., *Guidance No. 915.002* (Apr. 25, 2012).

⁴ The Sentencing Project, *Americans with Criminal Records* (online at www.sentencingproject.org/doc/publications/cc_HiT_CriminalRecords_profile_1.pdf); The White House, Office of the Press Secretary, *Fact Sheet: President Obama Announces New Actions to Promote Rehabilitation and Reintegration for the Formerly-Incarcerated* (Nov. 2, 2015) (online at www.whitehouse.gov/the-press-office/2015/11/02/fact-sheet-president-obama-announces-new-actions-promote-rehabilitation).

⁵ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Incarceration and Reentry* (online at aspe.hhs.gov/incarceration-reentry).

⁶ Council of State Governments Justice Center, *Integrated Reentry and Employment Strategies: Reducing Recidivism and Promoting Job Readiness* (Sept. 2013) (online at www.bja.gov/Publications/CSG-Reentry-and-Employment.pdf).

⁷ National Employment Law Project, *Ensuring People With Convictions Have a Fair Chance to Work* (online at www.nelp.org/campaign/ensuring-fair-chance-to-work/).

⁸ House Committee on Education and the Workforce, Subcommittee on Workforce Protections, Testimony of the U.S. Department of Labor’s Office of Federal Contract Compliance Programs Director Patricia A. Shiu, *Hearing Examining Recent Actions by the Office of Federal Contract Compliance Programs* (Dec. 4, 2013).

⁹ President Barack Obama, *Remarks on Criminal Justice Reform at Rutgers University* (Nov. 2, 2015).

We are grateful for your dedication and attention to reentry issues that have gone unaddressed for so long. We urge you to build on your Administration's record on fair chance hiring by committing the federal government to do its part to become a "model employer."

Thank you for your consideration of this request.

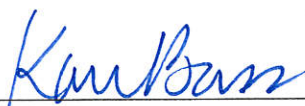
Sincerely,



ROBERT C. "BOBBY" SCOTT
Member of Congress



ELIJAH E. CUMMINGS
Member of Congress



KAREN BASS
Member of Congress



EARL BLUMENAUER
Member of Congress



SUZANNE BONAMICI
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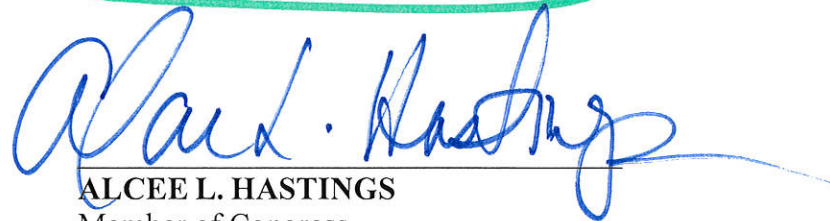
MARCIA L. FUDGE
Member of Congress



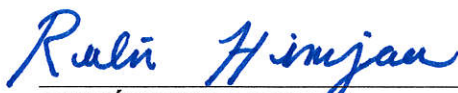
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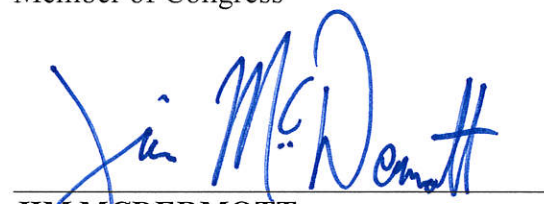
JOHN LEWIS
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ALAN S. LOWENTHAL
Member of Congress



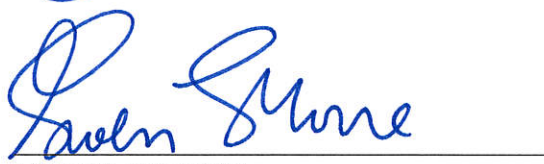
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GRACE MENG
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GWEN MOORE
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JERROLD NADLER
Member of Congress



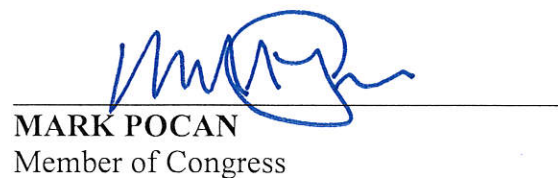
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