February 25, 2016

Dear Senator:

The American Association of University Women (AAUW) joined the nation in mourning the passing of U.S. Supreme Court Justice Antonin Scalia who served on the court for nearly 30 years. The Supreme Court has pending cases that will greatly affect the everyday lives of women and their families, and Justice Scalia’s untimely death creates a vacancy at a critical juncture. It is in the face of losing such a legal giant that we remember how fortunate we are, as a nation, to have a constitutional process to see us smoothly through this transition.

On behalf of the 170,000 bipartisan members and supporters of AAUW, I urge you uphold the U.S. Constitution by moving forward to fairly and expeditiously consider any nominee put forward by President Obama to fill the Supreme Court vacancy. In so doing, the American people will be reassured that a fully staffed court will be available to deliver this year’s critical Supreme Court decisions.

The Appointments Clause of the Constitution lays out three sequential acts in order to fill a vacancy. First, the nomination of the president, second the advice and consent of the U.S. Senate, and third the appointment by the president. There is no exception for the president to refuse to nominate a successor nor is there an exception for senators to refuse to provide advice and consent. Public statements by Senate Majority Leader Mitch McConnell and Republican members of the Senate Judiciary Committee that they will take no action on any nominee put forward by the president, before a nominee has even been named, impedes the function of government to ensure equal access to a fully functioning judicial system.

AAUW and our members feel compelled to urge all senators to reject cynical tactics to preemptively disqualify the president’s nominee or to obstruct any nominee for purely partisan reasons.

Proponents of obstruction have attempted to mislead the public by claiming there is not enough time left in the president’s term and that appointments should not occur in election years. These statements are false. Not only are these tactics a strong indication of the naked partisanship of this obstructionism, but it severely undermines the function of the Supreme Court and the integrity of the Senate. Waiting until January 2017 for a replacement would mean that for the first time in history, the Supreme Court would be without its full complement of justices for a good portion of two terms of the court.

Retired Supreme Court Justice Sandra Day O’Connor responded quickly to this delay tactic by stating, “I don’t agree [with waiting] ... I think we need somebody there now to do the job and let’s get on with it.”

Editorial boards from Colorado, Wisconsin, Ohio, New...
Hampshire, Pennsylvania, Iowa, Kentucky, Illinois, Maine and all over the country agree that the Senate should follow the Constitution and fairly consider President Obama’s nominee.iii Furthermore, a majority of Americans (56%) say the Senate should hold hearings and vote on President Obama’s choice to fill the vacancy.iv

AAUW urges senators to demand that Majority Leader McConnell and the Republican members of the Judiciary Committee rethink this unprecedented course of obstructionism and fairly consider any nominee put forward by President Obama to fill the Supreme Court vacancy. Furthermore, the full Senate should be given the opportunity for an “up or down” vote on any qualified nominee.

Votes associated with this issue may be included in the AAUW Action Fund Congressional Voting Record for the 114th Congress. If you have any questions or need additional information, feel free to contact me at 202/785-7720, or Erin Prangley, associate director for government relations, at 202/728-7730.

Sincerely,

Lisa M. Maatz
Vice President for Government Relations

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