



November 7, 2016

The Honorable Mitch McConnell
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Charles Grassley
Chairman, Senate Judiciary Committee
United States Senate
Washington, DC 20510

Dear Majority Leader McConnell and Chairman Grassley:

On behalf of the 170,000 bipartisan members and supporters of the American Association of University Women (AAUW), **I urge you to support regular order by holding a full and fair hearing, and a subsequent up-or-down vote, on Chief Judge Merrick Garland's nomination to the U.S. Supreme Court. This should happen during the lame duck session.**

In March, AAUW first wrote to you and all senators that as we mourned the passing of U.S. Supreme Court Justice Antonin Scalia, we were mindful of how fortunate we are as a nation to have a constitutional process to see us smoothly through such a transition. We presented legal and practical arguments in support of a full complement of nine justices, and expressed concern that senators vowed no action on any high court nominee put forward by President Barack Obama. We felt then, as we do today, that such action impedes the function of government to ensure equal access to a fully functioning judicial system.ⁱ

Since then, our members have sent your offices tens of thousands of constituent messages and published letters to the editor urging you to act. We remain concerned that there has been no official action on President Obama's nominee for over 230 days. In the beginning, it was frustrating to hear that senators felt they could hamstring the high court with only eight justices, inviting deadlock on some of the most important legal questions of the day. Indeed, as many predicted, this vacancy directly affected the results of key decisions in the Supreme Court's last term, including those resulting in 4-4 ties.ⁱⁱ This has created uncertainty in the lower courts, as well as among the people directly affected by those decisions. It's baffling and disturbing to hear several senators are now publicly calling for further delay of Supreme Court nominees if Hillary Clinton wins the presidency, effectively shrinking the Supreme Court for purely partisan reasons.ⁱⁱⁱ Although it is true the court has functioned with fewer justices in the distant past, since 1869 the nation and the court have been governed by the agreement that nine is the correct number of justices to decide critical cases that so greatly affect the everyday lives of women and their families.

AAUW urges you to reverse course and reject cynical tactics to preemptively disqualify Merrick Garland or to obstruct any future Supreme Court nominee for purely partisan reasons. The Senate should hold a hearing and call for an up or down vote.

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 Prangle, associate director for government relations, at 202/728-7730.

Sincerely,



Lisa M. Maatz
Vice President for Government Relations

cc: Sen. Harry Reid, Minority Leader
Sen. Patrick Leahy, Ranking Member, Senate Judiciary Committee

ⁱ Herszenhorn, David. "G.O.P. Senators Say Obama Supreme Court Pick Will be Rejected." New York Times. February 24, 2016. <http://www.nytimes.com/2016/02/24/us/politics/supreme-court-nomination-obama.html?hp&action=click&pgtype=Homepage&clickSource=story-heading&module=first-column-region®ion=top-news&WT.nav=top-news&r=0>

ⁱⁱ Liptak, Adam, Buchanan, Larry, and Parlapiano, Alicia. "How a Vacancy on the Supreme Court Affected Cases in the 2015-16 Term." New York Times. June 27, 2016. <http://www.nytimes.com/interactive/2016/02/14/us/politics/how-scalias-death-could-affect-major-supreme-court-cases-in-the-2016-term.html>

ⁱⁱⁱ Totenberg, Nina. "If Clinton Wins, Republicans Suggest Shrinking Size of Supreme Court," National Public Radio. November 3, 2016. <http://www.npr.org/2016/11/03/500560120/senate-republicans-could-block-potential-clinton-supreme-court-nominees>