

The Honorable Dianne Feinstein  
United States Senate  
Washington DC 20510

The Honorable Kamala Harris  
United States Senate  
Washington DC 20510

January 2, 2017

Dear Senators Feinstein and Harris,

The California Down Syndrome Advocacy Coalition (CDAC) would like to share with you our concerns about President-elect Trump's proposed Attorney General, Senator Jeff Sessions. CDAC is a partnership of parents and active Down syndrome organizations across the state of California who advocate on behalf of people with Down syndrome and their families.

One of our main goals is to promote meaningful access to educational opportunities for people with Down syndrome. Thanks to the hard work of many passionate advocates—parents, educators, legislators, and other stakeholders—the Individuals with Disabilities Education Act (IDEA) protects vulnerable students such as those with Down syndrome by ensuring that they have the right to a free and appropriate public education in the least restrictive environment, which is presumed to be a general education setting with appropriate supports. Based on remarks Sessions made on the Senate floor in 2000, we are concerned that as Attorney General, Senator Sessions might not support IDEA in the way that Congress intended it.

In his May 18, 2000, speech, Sessions indicated support for children who “have a hearing loss, or a sight loss, or if they have difficulty moving around, in a wheelchair, or whatever” being accommodated in a mainstream classroom. However, he went on to share numerous examples of students with emotional or behavioral challenges, who he claimed could not be disciplined because they were “special ed.” Sessions expressed at that time his feeling that IDEA made the jobs of teachers and administrators difficult by providing loopholes by which students with IEPs could not be disciplined in the same way as students without IEPs—in fact, he called it the “single most irritating problem for teachers throughout America today.”

While we certainly understand the need for teachers and administrators to be able to maintain an effective teaching environment, we are concerned that Sessions may be painting with a very broad brush and unnecessarily discounting an incredibly important piece of disability law. A great many students with IEPs do not have significant emotional or behavioral challenges—no more so than any typically developing child. And for *all* students with disabilities, it is clearly stated in the most recent text of IDEA that Congress found “almost 30 years of research and experience has demonstrated that the education of children with disabilities can be made more effective by...having high expectations for such children and ensuring their access to the general education curriculum in the regular classroom, to the maximum extent possible...[and] providing...aides and supports in the regular classroom, to such children, whenever appropriate...[and] providing incentives

for...positive behavioral interventions and supports...to address the learning and behavioral needs of such children.”

Further, the text of IDEA goes on to say that if a child’s behavior is determined not to be a manifestation of that child’s disability, “the relevant disciplinary procedures applicable to children without disabilities may be applied to the child in the same manner and for the same duration in which the procedures would be applied to children without disabilities.” In cases in which the behavior *is* found to be a manifestation of the disability, IDEA discusses how the student’s educational team can best address the concerns and what steps may be taken to remedy the problem.

In short, Sessions’ argument appears to have taken a relatively small subset of students—those with disabilities who also happen to have significant behavior challenges—and used that population segment to argue against a law that actually *does* account for such circumstances and, perhaps even more importantly, protects the rights of approximately 6.5 million students in America’s public schools—about 13 percent of all public school students, according to the National Center for Education Statistics.

Sessions’ remarks were made more than a decade ago, and we certainly recognize that his views on education may have evolved over the years. But we humbly ask that you please consider his historical views on students with disabilities when deciding whether to confirm his appointment as Attorney General. Please ask Senator Sessions about his current views on IDEA and other disability-related legislation. Ask him if he’s aware of the vast body of research indicating the success of IDEA since its inception in 1975. Ask him how he plans to use his position as Attorney General to uphold the rights of vulnerable student populations served under our nation’s federal disability laws.

We have made so much progress in disability law over the past decades, and none of us wants to see students’ disability rights lessened or stripped away under an Attorney General for whom they are not a priority.

With respect and thanks,

Kelly Kulzer-Reyes and Cathleen Small, co-chairs of the California Down Syndrome Advocacy Coalition

