



January 9, 2017

AN OPEN LETTER TO THE UNITED STATES SENATE
Association of Equal Opportunity, Affirmative Action and Diversity Professionals
Opposes the Confirmation of Senator Jefferson B. Sessions III for
Attorney General of the United States

Dear Majority Leader McConnell, Democratic Leader Schumer, Chairman Grassley, and Ranking Member Feinstein:

The American Association for Access, Equity and Diversity (AAAED) respectfully urges the United States Senate to reject the nomination of Senator Jefferson Beauregard Sessions III for the position of Attorney General of the United States. Upon reviewing the voting record of Senator Sessions, which is replete with evidence of a bias against efforts to promote equal opportunity for women, minorities, persons with disabilities and the LGBT community, the association finds that Senator Sessions lacks the fundamental qualification for Attorney General: the demonstrated ability to serve as the chief legal enforcer of rights for all including the historically disadvantaged.¹

Founded in 1974 as the American Association for Affirmative Action (AAAA), AAAED is a national not-for-profit association of professionals working in the areas of equal opportunity, compliance and diversity. AAAED has more than 40 years of leadership in providing professional training to members, enabling them to be more successful and productive in their careers. It also promotes understanding and advocacy of affirmative action and other equal opportunity laws to enhance the tenets of access, inclusion and equality in employment, economic and educational opportunities.

We do not take this position lightly and without due consideration. After a review of the voting record of Senator Sessions, in addition to his many statements and actions as reported by the press and recounted by civil rights and government leaders, we cannot in good conscience remain silent.

His votes not to confirm many nominees of color and women who are champions of equal opportunity in their chosen fields also raise serious concerns about bias against persons who support the principles of access, equity and diversity.

¹ See the December 1, 2016 letter from the Leadership Conference on Civil and Human Rights, which AAAED co-signed. <http://www.civilrights.org/advocacy/letters/2016/civil-and-human-rights.html>

Senator Sessions reportedly stated that he believes that Race and Civil Rights is a “very, very difficult subject.” We do not. In 1997 Sessions said:

"I think it has, in fact, been a cause of irritation and perhaps has delayed the kind of movement to racial harmony we ought to be going forward [with] today. I think it makes people unhappy if they lost a contract or a right to go to a school or a privilege to attend a university simply because of their race."

Laws intended to promote equal opportunity through affirmative action bar making selections in employment, education or contracts solely on the basis of race. They are designed to prevent discrimination and to promote opportunities for all who are qualified to compete regardless of their race, religion, sex, ethnicity, disability, veteran’s status, gender identity or sexual orientation. An attorney of the stature and experience of Senator Sessions should know that.

In addition, we take note of the following aspects of the Senator’s legislative record:

- Senator Sessions supported an ultimately unsuccessful effort to end affirmative action programs in the federal government (a measure so extreme that many conservatives were against it).²
- Sessions scores 7% by the NAACP on affirmative action, indicating an anti-affirmative-action stance. "Strongly opposes affirmative action."³
- Sessions voted NO on expanding hate crimes to include sexual orientation. Vote on an amendment that would expand the definition of hate crimes to include gender, sexual orientation and disability. The previous definition included only racial, religious or ethnic bias.⁴
- Voted NO on setting aside 10% of highway funds for minorities and women.⁵
- Voted YES on ending special funding for minority and women-owned business. This legislation would have abolished a program that helps businesses owned by women or minorities compete for federally funded transportation.⁶

Moreover, Senator Sessions Voted “Nay” on the following legislation:

- Paycheck Fairness Act, 2012 and 2014
- Employment Non-Discrimination Act of 2013
- Violence against Women Reauthorization Act of 2013
- The Convention on the Rights of Persons with Disabilities, Treaty Ratification 2012
- Reauthorizing the Violence Against Women Act 2012
- Lilly Ledbetter Fair Pay Act of 2009
- Equal Pay Bill of 2008
- Hate Crimes Amendment, 2000

² Closed Session," New Republic, Sarah Wildman, December 30, 2002, <https://newrepublic.com/article/61363/closed-sessions>.

³ http://www.ontheissues.org/Domestic/Jeff_Sessions_Civil_Rights.htm

⁴ Reference: Bill S.2549; vote number 2000-136 on Jun 20, 2000

⁵ Vote to table, or kill, an amendment to repeal the Disadvantaged Business Enterprise [DBE] Program, which requires no less than 10% of highway construction projects funded by the federal government to be contracted to 'disadvantaged business enterprises.' Reference: Bill S.1173; vote number 1998-23 on Mar 6, 1998.

⁶ Status: Cloture Motion Rejected Y) 48; N) 52.

Senator Sessions voted “Yea” on a controversial bill to exempt religiously affiliated employers from rules prohibiting discrimination based on sexual orientation and gender identity. (Exempts Religiously Affiliated Employers from the Prohibition on Employment Discrimination Based on Sexual Orientation and Gender Identity, 2013)⁷

Lastly, Senator Sessions voted to oppose the confirmations of the following Obama nominees of color and women, especially those who had strong records in support of affirmative action and equal opportunity. This we find equally troubling:

- Loretta E. Lynch to be Attorney General
- Wilhelmina Wright to Be U.S. District Judge
- Julian Castro to be Secretary of Housing and Urban Development
- Elena Kagan, Associate Justice to the U.S. Supreme Court
- Sonia Sotomayor, Associate Justice to the U.S. Supreme Court
- David Satcher, Surgeon General of the Public Health Service
- Debo P. Adegbile, Assistant Attorney General for Civil Rights
- Tom Perez, Secretary of Labor

On the matter of the confirmation of Ninth Circuit Appeals Court Nominee Goodwin Liu, Senator Sessions stated:

"I am very disappointed by President Obama's nomination of Professor Goodwin Liu to the U.S. Court of Appeals for the Ninth Circuit--already an activist court that has handed down decisions striking "under God" from the Pledge of Allegiance and finding Megan's Law to be unconstitutional. I fear that Professor Liu will be an activist judge in this same mold.

"Instead of nominating an individual who has demonstrated an impartial commitment to following the Constitution and the rule of law, President Obama has selected someone far outside the mainstream of American jurisprudence. Professor Liu believes that judges should look to "evolving norms and social understandings" in interpreting the Constitution, *he has a history of advocating for racial preferences, and he served on the Board of the directors of the ACLU.* (Emphasis added)

"Professor Liu's record will be examined carefully and fairly, and I will withhold final judgment until after his hearing. But it seems to me that his judicial philosophy does not respect the American ideal of judges as neutral arbiters of the law. I hope my initial impressions are wrong."

⁷ Source:

http://sessions.senate.gov/public/index.cfm?FuseAction=PressShop.NewsReleases&ContentRecord_id=0bb94adb-edcd-bc3d-65d7-4306b54d8556&Region_id=&Issue_id=

https://votesmart.org/public-statement/486784/sessions-expresses-concerns-with-appeals-court-nominee#.WG1D_Efg81w

Goodwin Liu withdrew his name after the Senate failed to overcome a filibuster of his nomination.⁸

AAAED is mindful of the fact that the President deserves the right to nominate individuals who, in his judgment, will faithfully execute the laws and policies entrusted to his stewardship on behalf of the American people. We are also mindful, however, of the essential role that the United States Attorney General plays in enforcing the laws in a way that will mete out justice for all, including women, minorities, persons with disabilities, religious minorities and members of the LGBT community. It is the historically disadvantaged that depend most upon the vigilance and even-handedness of the Attorney General.

We are particularly concerned that, given his views on affirmative action, diversity and related matters, Senator Sessions will not be a vigorous defender of matters before the federal courts, including the U.S. Supreme Court as in the case of *Fisher v. the University of Texas at Austin*. Too much progress has been made in the past fifty years for this nation to retreat now.

We therefore, cannot conclude, from a review of Senator Sessions' record, that he is the best qualified person for this august position.

Thank you for your kind attention to our concerns. If you would like to discuss the matter further, please contact Shirley J. Wilcher, AAAED Executive Director, at 202-349-9855; execdir@aaaed.org.

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⁸ <http://articles.latimes.com/2011/may/25/nation/la-na-0526-goodwin-liu-20110526>