



February 11, 2019

Committee on the Judiciary
United States Senate
Washington, DC 20510

Dear Senator:

On behalf of our three million members and the 50 million students they serve, we strongly urge you to oppose confirming Neomi Rao to the U.S. Court of Appeals for the District of Columbia Circuit because of her ideological extremism and efforts to undermine human and civil rights for women, LGBTQ Americans, and communities of color. Votes associated with this issue may be included in NEA's Report Card for the 116th Congress.

As far back as 1994, Ms. Rao repeatedly advocated against the rights of women and sexual assault victims, LGBTQ equality, and governmental protections for communities of color. Specifically:

- As a college student, Ms. Rao wrote in multiple opinion pieces that sexual assault victims are partly to blame for being assaulted, and that some women make false allegations to avoid accepting “the consequences of their sexuality.”¹
- She exhibited hostility towards affirmative action, writing that “Yale has dedicated itself to a relatively firm meritocracy, which drops its standards only for a few minorities, some legacies and a football player here or there.”²
- She chided the Yale Bisexual, Gay, and Lesbian Co-op for “spreading myths about AIDS and ‘raising awareness’ about homophobia/heterosexism.”³

In recent years, Ms. Rao has criticized several U.S. Supreme Court rulings central to advancing civil and human rights. Specifically:

- In 2013, she criticized the court's ruling in *United States v. Windsor*, which struck down the Defense of Marriage Act because it denied same-sex couples the same federal marriage benefits as opposite-sex couples.⁴

¹ Neomi Rao, *The Feminist Dilemma*, Yale Free Press 6–7 (April 1993), <https://afj.org/wp-content/uploads/2019/01/02-The-Feminist-Dilemma.pdf>

² Neomi Rao, *Vive la différence!*, YALE FREE PRESS, Feb./Mar. 1995, at 8–9, <https://afj.org/wp-content/uploads/2019/01/11-Vive-la-Difference.pdf>.

³ Neomi Rao & Markham Chenoweth, *Yale's Mix of Undergraduate Organizations*, YALE FREE PRESS, Sept. 1994, at 6–7, <https://afj.org/wp-content/uploads/2019/01/04-Yale27s-Mix-of-Undergraduate-Organizations.pdf>.

⁴ Neomi Rao, *The Trouble with Dignity and Rights of Recognition*, 99 VA. L. REV. IN BRIEF 29 (2013), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2313234.

- In 2015, she criticized the court’s decision in *Texas Department of Housing v. Inclusive Communities Project*, which held that the Fair Housing Act prohibits seemingly race-neutral policies because they can disproportionately harm minority communities.⁵
- During her confirmation hearing, Rao was asked repeatedly if *Brown v. Board of Education* was correctly decided, and she refused to answer. She testified only that *Brown* is “a really important precedent,” which she would follow if confirmed.⁶

In her current position as Administrator of the Office of Information and Regulatory Affairs, Ms. Rao has endeavored to roll back civil rights protections for millions of Americans by:

- Supporting rules proposed by the Trump administration that weaken Title IX protections for victims of sexual harassment and sexual assault in schools, and limit schools’ responsibility for addressing such conduct.
- Helping to block bipartisan guidance, recommended by the Equal Employment Opportunity Commission, that clarifies what constitutes sexual harassment in the workplace.
- Trying to diminish disparate impact protections for communities of color implemented by the Department of Housing and Urban Development in 2015.
- Crafting a new rule that would allow health care providers to deny, on religious grounds, medical services to LGBTQ patients and women seeking reproductive health care.
- Supporting efforts to weaken public protections against mercury pollution when research shows that high levels of mercury in the body can damage the brains of infants and young children.

For all of these reasons, we strongly urge you to oppose the nomination of Neomi Rao to the U.S. Court of Appeals for the District of Columbia Circuit.

Sincerely,



Marc Egan
Director of Government Relations
National Education Association

⁵ Neomi Rao, *The Supreme Court’s Rule by Talking Points*, WASHINGTON EXAMINER, July 7, 2015, <https://www.washingtonexaminer.com/the-supreme-courts-rule-by-talking-points>.

⁶ *Nomination of Neomi Rao to the United States Court of Appeals for the District of Columbia Circuit: Hearing Before the S. Comm. on the Judiciary*, 116th Cong. (2019) (testimony of Neomi Rao), <https://www.c-span.org/video/?c4777936/dc-circuit-nominee-rao-brown-v-board-education>.