



FOR IMMEDIATE RELEASE
March 9, 2017

CONTACT: Staci Maiers for National Education Association
202-270-5333 cell, smaiers@nea.org

Julie Rosenthal for Bazelon Center for Mental Health Law
202-486-3059 cell, julie@jrcommunications.com

Reports reveal Gorsuch repeatedly ruled against students with disabilities
Independent studies from NEA, Bazelon Center for Mental Health Law reveal troubling trend with Gorsuch's record on cases involving this vulnerable student population

WASHINGTON — Judge Neil M. Gorsuch, President Donald Trump's nominee for the Supreme Court, has failed to adequately and fairly protect the rights of students with disabilities, according to [reports that reviewed his court rulings](#). Two independent reports, one from [Bazelon Center for Mental Health Law](#) and the other from the [National Education Association](#), reveal a troubling trend that could disqualify him from the nation's highest court. Gorsuch, currently a judge on the 10th U.S. Circuit Court of Appeals, is set to testify before the U.S. Senate on March 20.

Both reports' key findings show that Gorsuch has imposed barriers to prevent students from asserting their rights or proving their case in court by requiring extreme pre-conditions for bringing lawsuits. Even when students have successfully proven that their rights have been violated, Gorsuch has denied them relief in the courts.

“It is incomprehensible that Judge Gorsuch has gone out of his way to impose extra legal barriers for students with disabilities rather than helping them to overcome obstacles,” said [NEA President Lily Eskelsen García](#), who taught students with special needs during her 20-year classroom career in Utah. “In his court decisions, Judge Gorsuch endorsed the lowest of expectations for students with disabilities, which allowed public schools to provide our highest-needs students with the bare minimum educational benefit. We should all be concerned by this troubling trend in Gorsuch's record.”

One of [Gorsuch's most problematic rulings is the 2008 case *Thompson R2-J School District v. Luke P.*](#), which involved an autistic student with behavioral problems. In Luke's first school, his teacher created a plan for him to achieve social and emotional skills both in the classroom and at home, and she visited Luke's home to assist his parents in implementing the plan. When Luke's family moved, his new school made one attempt to ensure Luke was using his in-school skills at home, but did little else. Ultimately, he regressed at home. An impartial hearing officer, an administrative law judge, and a federal district court all found that these regressions showed that the school was not providing Luke with a “free appropriate public education.” Gorsuch, however, held that Luke was only entitled to make progress that was slightly above the lowest possible standard.

“Judge Gorsuch's flawed interpretation of federal disability law threatens to leave our most vulnerable children unprepared to face the daunting world in which they will live as adults,” said Jeff Perkins, Luke's father.

In another case, *A.F. v. Española Public Schools*, [Gorsuch ruled that a student could not assert her rights under the Americans with Disabilities Act](#) if she had already settled any claims under the Individuals with Disabilities

Education Act. His decision denies students the full protections of both statutes even though Congress explicitly said in the statute that it intended for both laws to provide distinct protections to students.

The NEA-Bazon reports also revealed [Gorsuch has failed to hold schools responsible when they segregated students with disabilities in abusive conditions](#). His rulings have allowed schools to use force that many consider inappropriate and to isolate students with disabilities, despite studies showing that these students — especially students of color — are disproportionately subjected to these traumatizing practices in schools.

“The Supreme Court has a critical role in interpreting and enforcing the civil rights protections for people with disabilities,” said [Mark J. Murphy of the Bazelon Center for Mental Health Law](#). “As our report shows, in his more than 10 years on the Court of Appeals, Judge Gorsuch has failed to demonstrate a sensitivity to and understanding of the legal rights of people with disabilities, including students entitled to the protections of the IDEA. This record is deeply concerning and needs to be fully examined by Judiciary Committee members.”

Follow us on twitter at @NEAMedia

Keep up with the conversation at #STOPGorsuch

###

The National Education Association is the nation's largest professional organization, representing more than 3 million elementary and secondary teachers, higher education faculty, education support professionals, school administrators, retired educators and students preparing to become teachers. Learn more at www.nea.org.