



# AFL-CIO

AMERICA'S UNIONS

**American Federation  
of Labor and  
Congress of Industrial  
Organizations**

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September 20, 2017

Chairman Charles Grassley  
Ranking Member Diane Feinstein  
U.S. Senate Committee on the Judiciary  
224 Dirksen Senate Office Building  
Washington DC 20510-6050

Dear Chairman Grassley and Ranking Member Feinstein:

The AFL-CIO urges you to oppose the nomination of Colorado Supreme Court Justice Allison Hartwell Eid for the U.S. Court of Appeals for the Tenth Circuit. Justice Eid's troubling and often-extremist dissents in cases involving labor, employment, and public education raise serious concerns. Moreover, the bipartisan Judicial Conference of the United States has recommended that this Tenth Circuit vacancy, for which Justice Eid is nominated, not be filled because of a lack of cases.

Justice Eid formerly served as a speechwriter and special assistant to President Reagan's Secretary of Education, William Bennett. As a sitting judge, she appears to have continued Secretary Bennett's controversial education policy, including support of voucher programs. While the majority of the Colorado Supreme Court ruled that a state voucher program violated a provision of the state constitution prohibiting government funding of religious schools, Justice Eid concurred in part and dissented in part. She argued that the state constitution prohibited sustaining or supporting churches or religious schools, but that the voucher program assisted students, so the government funds only "indirectly or incidentally benefit[ed] church or sectarian schools." In a more global and extreme attack, Justice Eid questioned the very enforceability of the constitutional provision, given the "anti-Catholic animus" by those who enacted the Colorado Constitution.

In another public education case, one in which Justice Eid concurred with the majority, she agreed to uphold a law that eviscerated teachers' right to choose to unionize. The Court majority allowed school boards with a majority of teachers and others to approve "innovation plans," even when 11 schools adopted such plans without approval of the schools' teachers and those plans included waivers of the teachers' right to bargain collectively. Three dissenting judges made clear that the majority holding undermined the plain meaning of the statute.

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September 20, 2017  
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Last, in an employment case, the majority of the Colorado Supreme Court ruled that a woman employee who fell down a work stairwell, the cause of which was unclear, satisfied the “arising out of” employment requirement to receive workers compensation. The majority reasoned it needed no more evidence to establish causation, because the employee’s fall down the stairs was caused by neither a health condition of hers nor the condition of the stairs, and her fall occurred during the workday while doing work. Justice Eid vehemently dissented, reaching the somewhat improbable and twisted conclusion that the employee’s injury was not “work-related” because the fall down the stairwell was “unexplained” and, therefore, no causation was established.

Since there is no need to fill this vacant seat, and since Colorado Supreme Court Justice’s Eid’s record is troubling in cases involving labor, employment, and public education, the AFL-CIO urges you to oppose Allison Eid’s nomination to the U.S. Court of Appeals for the Tenth Circuit.

Sincerely,

A handwritten signature in black ink, appearing to read "William Samuel".

William Samuel  
Government Affairs Director

WS/CC/lkr