



The Center for Public Representation Opposes the Nomination of Judge Kavanaugh

The Center for Public Representation (CPR) joins other disability, civil rights, and health care organizations in opposing the nomination of Judge Brett Kavanaugh to the United States Supreme Court.

CPR is a national legal advocacy organization that promotes the full inclusion and integration of people with disabilities in all aspects of life. For more than four decades, CPR has advanced the civil rights of people with disabilities and fought against disability discrimination in federal courts across the country, including the Supreme Court. We have advocated for laws that ensure individuals with disabilities have the same rights and opportunities as all individuals to live full and meaningful lives and make their own decisions. We know first-hand how important the federal courts are in ensuring these laws are enforced.

Based on Judge Kavanaugh's record, we are gravely concerned that if confirmed to the Supreme Court, he would undermine disability rights and reverse progress on many issues important to people with disabilities. Once appointed, his views will impact Supreme Court decisions for decades to come.

The Supreme Court Impacts the Rights of People with Disabilities

The Supreme Court makes final decisions about what federal laws and the U.S. Constitution mean. This includes many laws that are crucial to people with disabilities, such as the Americans with Disabilities Act (which prohibits disability discrimination and provides a right to community integration), Medicaid (which provides a right to critical health care services for people with disabilities), the Individuals with Disabilities Education Act (which ensures students with disabilities receive a Free and Appropriate Public Education), the Affordable Care Act (which expands access to health care and provides protections for people with pre-existing conditions), the 14th Amendment to the Constitution (which mandates equal protection under the law), and many others. How the current nominee or any Supreme Court Justice interprets these laws will have a huge impact on the opportunity for people for disabilities to participate, learn, work, and live in the community. The best way to understand how a judge will interpret these laws is to look at his or her record.

Justices are appointed for life to the Supreme Court. That's why the Constitution requires the President to submit Supreme Court nominations to the Senate for their review and confirmation. The current nomination process is the one chance for the public and the Senate to take a close look at Judge Kavanaugh's record and decide whether he is the right person to serve on the Supreme Court. A review of Judge Kavanaugh's record raises serious concerns about the decisions he would likely make about health care, disability, education and civil rights issues if he has a role as final decision-maker on the Supreme Court, potentially for decades to come.

Serious Disability Concerns in Judge Kavanaugh's Record

- **Health care**

Access to health care, particularly Medicaid-funded services, is crucial to ensuring that people with disabilities are able to live, work, and participate in their communities. That is why the disability community fought so hard against attempts by Congress to repeal the Affordable Care Act (ACA) and cut Medicaid. But those wins are at risk if Judge Kavanaugh were to be confirmed to the Supreme Court. Judge Kavanaugh has already written three separate opinions and made public comments that show a willingness to undermine the ACA's fundamental protections, like those related to people with pre-existing health conditions, and even to strike down the entire ACA as unconstitutional.

- **Self-Determination**

The right to make our own life choices and exercise personal preferences is at the heart of the individual liberty protected by our laws. But people with disabilities have too often been denied the right to make their own decisions and instead, that right is given to someone else. The law gives these appointed decision-makers certain authorities and responsibilities, and courts play a role in interpreting them. Unfortunately, Judge Kavanaugh has demonstrated a disturbing lack of regard for the rights of people with disabilities to have input in even the most fundamental, private aspects of their own lives. Judge Kavanaugh ruled in a case involving people with intellectual disabilities who were subjected to elective surgeries (including unwanted abortions) after government officials gave their consent. These officials had signed off on every proposed elective surgery for this group for 30 years, making clear this was a rubber-stamp process. Judge Kavanaugh sided with the government officials, disregarding any consideration of the individuals' wishes, despite a D.C. law requiring that decision-makers try to determine the wishes of the individual. His reasoning suggests he believes there is no place for people with disabilities to express their choices and preferences, even in fundamental health care decisions.

- **Enforcement of Civil Rights Laws**

Congress has passed civil rights laws like the ADA to prohibit a broad a range of discrimination against all people with disabilities. Yet Judge Kavanaugh's decisions in several cases involving discrimination under the ADA and other civil rights statutes have attempted to narrow the law's protections and coverage. He also has repeatedly sided with employers in employment discrimination cases and upheld a restrictive voting identification law. Judge Kavanaugh's record raises serious concerns about whether he would support vigorous enforcement of civil rights laws.

- **Education**

Access to an equal education and ensuring the protections of the IDEA's guarantee of a Free and Appropriate Education (FAPE) are key to the disability community. Judge Kavanaugh has a long history of advocacy on behalf of school voucher programs, including as part of the Federalist Society's "School Choice Practice Group." The disability community has long raised concerns about vouchers because families often are forced to waive their rights under IDEA to be permitted to use them. Judge Kavanaugh's views on vouchers might impact how he views the importance of the IDEA's protections for students with disabilities.

- **Balance of powers**

Federal agencies, like the Departments of Justice, Health and Human Services, and Education, play an important role in the lives of people with disabilities, often through issuing regulations to implement laws like the ADA, IDEA and Medicaid. Judge Kavanaugh's writings and court decisions show that he does not support a strong role for federal agencies. He even has gone so far as stating that a President can choose not to enforce the law if the President concludes that enforcing it would be unconstitutional. Judge Kavanaugh's views raises serious concerns about how he would rule in cases involving agency regulations and policies related to issues like disability discrimination, access to health care or special education. It is also extremely concerning that he suggests the President is above the law.

For more detail on Judge Kavanaugh's record on these and more disability issues, see a ["Review of Disability Related Cases Involving Judge Brett Kavanaugh"](#) by the Bazelon Center.

The Voice of the Disability Community Must Be Heard

The appointment of a Supreme Court Justice is a very serious matter. Once appointed, a Justice is a Justice for life. There is no do-over. Now is the time to make clear that the disability community needs a fair and impartial Justice who is committed to civil and disability rights.

CPR encourages people with disabilities, their families and allies to learn more about Judge Kavanaugh's record and what his confirmation could mean to the disability community. Make your voice heard. Educate your Senators on the issues that are most important to you, and raise your concerns about Judge Kavanaugh's record as your Senators are evaluating him. CPR and many other disability, civil rights and health care organizations oppose Judge Kavanaugh's nomination based on his record, and we encourage you to tell your Senators to oppose him too.

Learn more and keep updated about Judge Kavanaugh's nomination at <https://centerforpublicrep.org/kavanaugh-nomination/>.