



March 14, 2017

The Honorable Lamar Alexander
Chair
Committee on Health, Education, Labor and
Pensions
U.S. Senate
Washington, D.C. 20510

The Honorable Patty Murray
Ranking Member
Committee on Health, Education, Labor and
Pensions
U.S. Senate
Washington, D.C. 20510

Dear Chair Alexander and Ranking Member Murray:

On behalf of the National Partnership for Women & Families and the activists and supporters with whom we stand, I write today to encourage rigorous questioning and a thorough review of the record of R. Alexander Acosta, the nominee to be U.S. Secretary of Labor. The Secretary of Labor should be a dedicated and powerful champion for workers and committed to the enforcement and advancement of policies that promote the best interests of working people. This includes fighting for fair wages, safe workplaces, equal pay, paid sick days, paid family and medical leave and equal employment opportunities. We will listen carefully to Mr. Acosta's responses at his upcoming confirmation hearing to evaluate whether he can be trusted to defend and protect the interests of working people, and especially workers in low-wage occupations and in dangerous industries, women workers and workers of color. We urge you to do the same, and if you are not satisfied that he will stand up for working people's best interests, to reject his nomination.

The National Partnership for Women & Families is a nonprofit, nonpartisan organization dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality health care, and policies that help women and men meet the dual demands of job and family. For more than 45 years, we have worked to advance policies that create opportunities for women in the workforce and greater economic security for women and their families. The National Partnership has worked tirelessly to secure updated wage and hour protections for millions of America's workers, new equal employment opportunity protections for federal contract employees, and vigorous enforcement of the Fair Labor Standards Act and the Family and Medical Leave Act – all of which are under the jurisdiction of U.S. Department of Labor.

We have three primary areas of concern that we urge the committee to probe during Mr. Acosta's hearing.

First, we are concerned about Mr. Acosta's failure to exercise oversight over a subordinate who engaged in highly politicized and ideological hiring of civil service employees during Mr.

Acosta's tenure as the Assistant Attorney General for Civil Rights at the Department of Justice. An investigation and subsequent report by the Department of Justice's Office of the Inspector General found that Mr. Acosta was aware of, and did too little to stop, his subordinate's efforts only to consider or hire attorneys with conservative credentials, and reject candidates and attorneys with liberal credentials.¹

During Mr. Acosta's confirmation hearing, we urge you to question Mr. Acosta vigorously about the safeguards and protocols he will institute and maintain at the Department of Labor to ensure that the department's policy, research, regulatory and enforcement work is not compromised or undermined by partisan or ideological litmus tests for civil servants.

Second, the committee must rigorously probe Mr. Acosta's views on the role of the Department of Labor in investigating and enforcing laws that disproportionately impact women, people of color and vulnerable workers. We are concerned by reports that during Mr. Acosta's tenure at the Department of Justice, the Civil Rights Division brought significantly fewer employment discrimination cases than in prior administrations.² The division also reportedly moved away from filing high-impact cases challenging discriminatory policies affecting large numbers of people.³

During Mr. Acosta's confirmation hearing, we urge you to identify what Mr. Acosta's approach will be to investigating allegations of violations of wage and hour laws, workplace safety laws and other fundamental workplace protections, including those enforced by the Office of Federal Contract Compliance Programs (OFCCP). We ask you to hold Mr. Acosta accountable for explaining what his strategic enforcement priorities will be. And we urge you to ask Mr. Acosta to pledge that he will advocate for current or increased funding levels for the Department of Labor, including for wage and hour investigation and enforcement activities, which since 2009 have successfully recovered nearly \$1.6 billion back wages for more than 1.7 million workers across the country.⁴

Third, we urge you to probe Mr. Acosta's views on the need for new or expanded protections and supports that recognize workers' dual obligations to their jobs and to their families. In recent years, the Department of Labor has provided funding and technical assistance to states interested in exploring the creation of paid family and medical leave programs. The department commissioned important research that revealed the gaps in employer compliance and employees' barriers to using the Family and Medical Leave Act (FMLA). The department updated Fair Labor Standards Act regulations to guarantee more salaried workers access to overtime pay. And the department created new common-sense protections requiring that federal contractors' employees be paid a higher minimum wage and have access to earned paid sick days; it also adopted new nondiscrimination provisions for LGBT workers and protections against retaliation for workers who discuss their compensation with coworkers. Each of these policies helps to advance the interests of workers and their families and promotes their economic security.

In order to assess Mr. Acosta's commitment to these policies and to improving the lives of millions of working people, the committee should discern what types of investments Mr. Acosta will pledge to make as labor secretary and obtain his commitment to defend against rollbacks. For example, will he commit to vigorous enforcement of the FMLA? Will he support FMLA expansions? Will he invest in strong, comprehensive and sustainable solutions to America's paid

family and medical leave crisis, including support for a national law that guarantees women and men access to paid family and medical leave for all FMLA reasons and continued Department of Labor funding for state paid leave analyses? Will he pledge to maintain and enforce department rules governing overtime pay, paid sick days, LGBT nondiscrimination and fair pay? The answers to these questions will help the committee – and the nation – assess whether Mr. Acosta’s views reflect those of the vast majority of voters who support these policies or whether his views are outside the mainstream and out of step with the workers whose interests he must serve.

We hope you agree that the next Secretary of Labor must strongly support the mission of the department, which is “[t]o foster, promote, and develop the welfare of the wage earners, job seekers, and retirees of the United States; improve working conditions; advance opportunities for profitable employment; and assure work-related benefits and rights.” We urge you to ask probing questions and to demand clear answers to determine whether Mr. Acosta will faithfully execute this mission. If he will not, we ask you to reject his nomination.

Sincerely,



Debra L. Ness
President
National Partnership for Women & Families

1 U.S. Department of Justice U.S. Department of Justice Office of the Inspector General Office of Professional Responsibility. (2008, July 2). *An Investigation of Allegations of Politicized Hiring and Other Improper Personnel Actions in the Civil Rights Division*. Retrieved 3 March 2017, from <https://oig.justice.gov/special/s0901/final.pdf>

2 National Women’s Law Center. (2004, April). *Slip-Sliding Away: The Erosion of Hard-Won Gains for Women Under the Bush Administration and an Agenda for Moving Forward*. Retrieved 13 March 2017, from <http://www.nwlc.org/sites/default/files/pdfs/AdminRecordOnWomen2004.pdf>

3 Ibid.

4 Perez, T. E. (2017, January). Department of Labor: *Memorandum to the American People*. U.S. Department of Labor Publication. Retrieved 13 March 2017, from <https://www.dol.gov/sites/default/files/dol-exit-memo.pdf>