



Written by [Raven Clabough](#) on July 20, 2010

Vote for Kagan Appointment Set for Tuesday

The Senate Judiciary Committee is expected to vote on the nomination of Elena Kagan for the Supreme Court on Tuesday at 10 a.m., after which the nomination would proceed to the full Senate. With Democratic majorities both in the Judiciary Committee and the full Senate, the Obama administration expects confirmation to be a relatively smooth victory, but the GOP may have other plans. Unfortunately for the GOP, some liberal Republicans are expected to break from the party line and confirm the left-wing Supreme Court nominee.



Two Democrats on the Senate Judiciary Committee have openly pledged their support for Kagan, while all nine Republicans stand opposed. On the other hand, Democrats maintain a five-vote majority on the Committee. Experts predict that Kagan will be approved by the Judiciary Committee.

With 41 Republican Senators, the Democratic majority may be confronted by a filibuster if Kagan does not manage to gain the support of at least a few Republicans. Democrats have remained confident, however, that the eight Republicans who approved of Supreme Court Justice Sonya Sotomayor will vote in favor of Kagan. Those eight Republicans are Lamar Alexander, Kit Bond, Susan Collins, Olympia Snowe, Lindsey Graham, Judd Gregg, Richard Lugar, and George Voinovich.

At this time, none of those eight Republicans have indicated support for the Supreme Court nominee, though there has been some speculation that Lindsey Graham may break from the GOP and vote to appoint Kagan.

In an interview with *Politico*, Graham seemed to lay the groundwork for his potential break from the Republican Party in the vote over Kagan. If Graham does indeed vote in favor of Kagan, it will be grounded in two assertions he made in the interview: that President Obama is entitled to his nominee since he was elected by the people; and that he (Graham) does not intend to alter the ideological makeup of the Supreme Court.

Graham explained, "When it comes to judicial nominations, elections have consequences. My point of view is you're replacing Justice Stevens with someone that's of like mind who may actually be more friendly to national security issues." This point of view is of course contrary to the constitutionalist position that a judge should decide cases based on the Constitution, irrespective of his personal ideological beliefs or the beliefs of those who are elected to positions of power.

Throughout the judicial hearings, Republicans articulated concerns over Kagan's lack of experience and leftist ideologies that they believed would rear their ugly heads in Kagan's judicial decisions. Likewise, Kagan's unwillingness to openly answer relevant questions left many lawmakers with a bad taste in their mouths, including not just Republicans but Democrat Arlen Specter.

Yet, despite the legitimate concerns raised by the GOP, Republican Party leaders Jon Kyl and John Cornyn have ruled out the possibility of a filibuster, at least for the time being, leaving experts to



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believe Kagan will have the necessary votes.

It is this type of complacency exhibited by Graham and the rest of the lawmakers that drives the continuous decline of American faith in elected officials.

Meanwhile, Dr. C. Everett Koop, surgeon general under President Ronald Reagan, has expressed his opposition to the nomination. In a letter released by the pro-life group Americans United for Life, Koop wrote that he "was deeply disturbed to learn the Elena Kagan ... manipulated the medical policy statement on partial-birth abortion of a major medical organization, the American College of Obstetricians and Gynecologists (ACOG) in January 1997." He continued:

The problem for me, as a physician, is that she was willing to replace a medical statement with a political statement that was not supported by any existing medical data. During the partial-birth abortion debate in the 1990s, medical evidence was of paramount importance.

Ms. Kagan's amendment to the ACOG Policy Statement — that partial-birth abortion "may be the best or most appropriate procedure in a particular circumstance to save the life or preserve the health of a woman" — had no basis in published medical studies or data. No published medical data supported her amendment in 1997, and none supports it today.

If Kagan is indeed approved by the Senate Judiciary Committee, her nomination will then come before the full Senate for a final vote in August.

Photo of Elena Kagan: AP Images



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