

To: Minneapolis Federal Reserve President Kashkari and retired Justice Page  
From: Dr. Fred Nolan, MREA Executive Director and the MREA Board of Directors  
Re: Proposed Minnesota Constitutional Amendment  
Date: February 6, 2020

The Minnesota Rural Education Association (MREA) Board of Directors, representing 230 Independent School Districts and 34 Cooperatives educating 225,000 students daily had a concentrated discussion February 4<sup>th</sup> on the amendment you are proposing for An Equal Right to a Quality Public Education. They appreciate your bringing attention and urgency to Minnesota's achievement gaps both with your quality research and public call for change.

Thank you for inviting our President, Lance Bagstad, Superintendent of Park Rapids Public Schools, Executive Director, Dr. Fred Nolan, and Director of Legislative Affairs, Sam Walseth to meet with you February 6. In anticipation of your meeting and the on-going state-wide discussion, the MREA Board has the following observations and questions for you at this time.

### **MREA Board of Directors Observations and Questions**

1. MREA agrees in the urgency to address Minnesota's achievement gaps. Too many kids are failing. In response, we ask "What can be done now?" We are unsure of the timetable for the courts to get to that question even with this amendment, and unsure whether the amendment will enable any state actions not currently allowed under our current constitution.
2. To educate and to learn is a two part process. By the definition, to 'educate' is to give intellectual, moral, and social instruction to (someone, especially a child), and to 'learn' is to gain knowledge or understanding of or skill in by study, instruction, or experience and to come to be able to demonstrate that understanding and skill. By contrast, first amendment rights are singular. I speak, I join an assembly, I worship (or not). Even civil rights define what one can and cannot do; they do not require the participation of another person or organization.

MREA wonders whether applying a 'right' to what is clearly a two part process requiring the active involvement of both educator and learner is the appropriate application of a 'right,' particularly when that 'right' is measured by the learners' ability to demonstrate the learning of uniform achievement standards.



3. To believe that public schools alone can close all achievement gaps is to put blinders on to the world we and our children, especially those not achieving, live in. MREA has long supported organizations and the state to address barriers to students' readiness to learn from housing instability, hunger, early learning, public health, mental health supports, and the costs of post-secondary education. The list goes on. What efforts will the drafters and proponents of this amendment propose and work for in these areas? Or is the amendment it?
4. MREA has the following twenty specific questions addressed to you as the drafters of the proposed amendment so you can inform us and others of your rationale and thinking behind choices of language, intent, and your expected intended and unintended consequences as a result of your proposed amendment.
  - 4.1. Why change? What does this proposed amendment allow the state to do that is not allowed under the current constitution?
  - 4.2. Why was the current constitutional language empowering the state to tax for education not included: "The legislature shall make such provisions by taxation or otherwise..."
  - 4.3. Who will, or how will "quality public schools," be defined?
  - 4.4. What is meant by "fully prepared?"
  - 4.5. Why are the purposes of education being changed from "The stability of a republican form of government depending mainly upon the intelligence of the people" to "participation in the economy, our democracy, and society? It appears to be a downgrading of the centrality of education to our very existence as a state and nation to an individual skills based model.
  - 4.6. How will this "right to a quality public education" be "measured against uniform achievement standards?" Testing? An emphasis on test results and scores strongly insinuates that kids are flawed. When will we hold the tests themselves accountable and realize the tests may be flawed?
  - 4.7. Who will set the standards?
  - 4.8. What if 'x' group is not happy with standards?
  - 4.9. How does the current 'opt out' right and movement affect the effects of this amendment?
  - 4.10. What are consequences for failing schools?



- 4.11. The general expectation is that this proposed amendment will open the doors for lawsuits by parents and others that school districts or the state denied a student(s) a quality public education.
- 4.11.1. Is this the intent: to have more lawsuits?
- 4.11.2. Could individual educators be sued?
- 4.11.3. How will school districts or the state be expected to pay for legal costs?
- 4.11.4. What will an evidentiary hearing look like? Is the question before the court, “My child is failing and whose fault is it?”
- 4.12. If litigation is brought, how will that help students? How will that help schools? Is this intended to help schools or punish schools?
- 4.12.1. Assuming the plaintiffs in any suit prevail, what would a court order look like?
- 4.12.2. What powers do the courts have to enforce their orders re:
- 4.12.2.1. School districts?
- 4.12.2.2. The state?
- 4.12.3. What might be the unintended consequences of this amendment re: lawsuits?
- 4.13. Since this creates a right, do you envision an Minnesota Office of Educational Rights, similar to the Office of Civil Rights (OCR) with similar functions?
- 4.14. Minnesota has a teacher shortage. What are the predicted effects of this amendment on young people’s willingness to go into teaching and their likelihood of staying in the profession?
- 4.15. The argument has been made that in *Roe v. Wade*, that the court stepped too far and that is some of the cause of current political chasms. How might that affect court rulings? Could it cause the courts to be cautious, and not force much change on the current system?
- 4.16. How would *Espinoza v. Montana Dept of Revenue*, currently before the US Supreme Court, be applied to Minnesota with this amendment’s ‘public school’ language should the court rule for the plaintiff?



- 4.17. An Individual Education Plan (IEP) is not a guarantee of a successful outcome, but a measure of successful growth. This amendment seems to guarantee successful outcomes. Is that the intent?
- 4.18. Kids do learn, and learn best, when education is valued and they attend school every day and try. This removes housing, hunger, health, and other family factors as drivers in student success. With this amendment, how will the courts address the cultural issues and trauma that kids face every day as factors in success or the lack thereof?
- 4.19. How long do you estimate it would take the courts to impact the education of even a single child should this amendment be adopted? This doesn't fix problem – it kicks it down road during litigation and then on to whichever body was ordered to enact a remedy. How long will that take?
- 4.20. What other unintended effects might there be? Politicization of judicial appointments and elections? Quality education being defined as specific cultural or political perspectives? How should we weigh the presumed benefits of this proposed amendment versus these and other unintended risks?

We look forward to your responses to our questions. This is a lengthy, but not exhaustive list. Again, we agree our achievement gaps demand attention and urgency. We intend to continue to advocate putting learners first, with all that entails, including considering proposals not from MREA.

