

- **The elimination of constitutional references to a public school system, and their replacement with references to a “quality public education.”** Combined with the elimination of the uniformity requirement, this change may permit the state to substantially increase the role of public-private educational systems within its borders, such as fully chartered school systems or school vouchers.
- **The tying of constitutional educational adequacy to achievement standards, rather than broad civic and educational principles.** This arrangement may permit the creation of separate-but-equal educational plans, which could conceivably remain constitutional so long as achievement standards were satisfied.
- **The suggestion the new educational amendment would permit far-reaching litigation against the state’s schools and school policies.** Although litigation plays an important role in vindicating fundamental constitutional rights, the proposed amendment may also produce litigation over relatively minor details of school policy. The day-to-day details of school operation and policy planning are properly left to the legislative and executive branch, not the courts.

In addition, I had several questions about the process of developing the proposed amendment. It is unclear from public records which experts or organizations were consulted during the creation of the Federal Reserve proposal. It is also unclear whether the Federal Reserve currently possesses background information or memoranda explaining how the proposed amendment would operate as a legal mechanism. Such information, particularly focused on questions of legal and judicial interpretation of the proposed language, would bring great clarity to the Federal Reserve’s proposal.

Unfortunately, our February 21 meeting produced little clarity.

In that meeting, you repeatedly characterized our earlier memo as “garbage” and dismissed its concerns as being unworthy of answer. In a followup letter, delivered March 2, you stated that the memo “draw[s] hyperbolic conclusions and demand[s] that we respond to your wild assertions.”⁴ The letter states that while you “value and encourage a wide range of views,” you “expect those views to be respectful of others and grounded in research and analysis,” and “[my] approach fell far short of the mark.”⁵

I respectfully disagree that our views were not grounded in research or presented respectfully. The concerns raised in our memo were raised by scholars and researchers deeply familiar with current Minnesota education law, and its operation in the courts. Indeed, these concerns are shared by numerous other scholars in the state and around the nation.

In our meeting, you also suggested that my Institute’s interest in the proposed amendment indicated personal character failings and was representative of self-aggrandizing behavior. In your March 2 letter, you state that my “condescending views as to who qualifies as a constitutional scholar appear to be grounded in racism.”⁶ You

⁴ Letter from Neel Kashkari, President of the Federal Reserve Bank of Minneapolis, to Myron Orfield, Director of the Institute on Metropolitan Opportunity (Mar. 2, 2020). A copy of the March 2 letter follows this letter.

⁵ *Id.*

⁶ *Id.*