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May 5, 2020

U.S. Senate  
Judiciary Committee  
Washington, DC 20510

Dear Senator:

On behalf of our 3 million members and the 50 million students they serve, we strongly urge you to oppose Justin Walker’s nomination to the U.S. Court of Appeals for the District of Columbia. Votes associated with this issue may be included in NEA’s Report Card for the 116th Congress.

Our nation is facing an unprecedented public health and economic crisis. As of this writing, 1.1 million Americans have tested positive for the coronavirus and nearly 70,000 have died from it—numbers that will continue rising for the foreseeable future. In the last week alone, 3.8 million Americans filed unemployment claims, bringing the total number of unemployed to more than 30 million. The non-partisan [Center on Budget and Policy Priorities](#) is projecting a massive \$350 billion in state budget shortfalls in FY2021. School buildings housing more than 45 million students in 43 states and Washington, DC, have shut down, and layoffs of educators and other public employees have begun.

The Senate should be dealing with the pressing issues wrought by this pandemic. A hearing on Walker’s nomination to the U.S. Court of Appeals for the District of Columbia should not even be held under these circumstances. If it proceeds, however, the nomination should be rejected because he is:

- **Hostile to health care.** The inequities, coverage gaps, and absurdly high cost of health care in America—more expensive by orders of magnitude than health care in comparable countries—were serious concerns even before the coronavirus crisis. Yet Walker has already made it clear he believes the Affordable Care Act is unconstitutional.<sup>1</sup> That alone is disqualifying.
- **Not qualified to serve on the second highest court in the land.** Walker’s cable news experience exceeds his courtroom experience. He has so little courtroom experience the American Bar Association (ABA) deemed him unqualified for the position he now seeks, finding it “challenging to determine how much of his ten years since graduation from law school has been spent in the practice of law.”<sup>2</sup> Before his confirmation to the district court, Walker was the chief lobbyist for then-Judge Brett Kavanaugh. He regularly appeared on cable news shows, where he praised

<sup>1</sup> Justin Walker, *Brett Kavanaugh Said Obamacare Was Unprecedented And Unlawful*, The Federalist, Jul. 3, 2018, <https://thefederalist.com/2018/07/03/brett-kavanaugh-said-obamacare-unprecedented-unlawful/>.

<sup>2</sup> American Bar Association, *Re: Nomination of Justin R. Walker to the United States District Court for the Western District of Kentucky*, Jul. 30, 2019, [https://www.americanbar.org/content/dam/aba/administrative/government\\_affairs\\_office/2019-07-30NQ-rating-Justin-R-Walker.pdf?logActivity=true](https://www.americanbar.org/content/dam/aba/administrative/government_affairs_office/2019-07-30NQ-rating-Justin-R-Walker.pdf?logActivity=true).

Kavanaugh as “a fighter for conservative legal principles who will not go wobbly” and proposed having the FBI investigate Senate Democrats for their oversight efforts.<sup>3</sup>

- **Not an impartial judge.** During his brief time on the bench, Walker has displayed an eagerness to operate as a political, cultural warrior rather than an impartial judge. At his March 13, 2020 investiture, he sarcastically thanked the ABA “for serving as an enduring reminder that although my legal principles are prevalent, they have not yet prevailed ... in Brett Kavanaugh’s America, we will not surrender while you wage war on our work, or our cause, or our hope, or our dream.”<sup>4</sup> On April 11, 2020, in *On Fire Christian Center v. Fischer*, Walker issued a temporary restraining order against a stay-at-home order that allowed a Louisville church to hold an in-person Easter service without first hearing from the city. In language more befitting a social media post than a judicial opinion, he accused the mayor of “criminaliz[ing] the communal celebration of Easter.” Walker would have known the stay-at-home order did not criminalize or prohibit services if had given the city a chance to respond before issuing his inflammatory opinion.
- **Hostile to public education.** In the *On Fire Christian Center* opinion, Walker opined on state prohibitions against using taxpayer dollars to support sectarian schools—prohibitions that limit public funding of public schools that welcome all students, regardless of race, religion, ethnicity, sexual orientation, gender identity, or disability. To Walker, the prohibitions deserve the same kind of condemnation as slavery and religious bigotry: “[P]ockets of society have not always lived up to our nation’s ideals. Slave owners flogged slaves for attending prayer meetings ... Bigotry toward Roman Catholics motivated a majority of states to enact [prohibitions on public funding of sectarian schools].”<sup>5</sup> He made these statements even though the issue of public funding of sectarian schools was not before the court and could come before him in the future.

In short, Walker is a political and cultural warrior, not an impartial judge. During his brief career, and few months on the bench, he has clearly demonstrated a commitment to using the courts to achieve political goals, not dispense equal justice.

For all these reasons, we strongly urge you to oppose Walker’s nomination to the U.S. Court of Appeals for the District of Columbia.

Sincerely,



Marc Egan  
Director of Government Relations  
National Education Association

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<sup>3</sup> Fox News, *Law professor: Judge Kavanaugh has backbone of iron*, Jul. 8, 2018, <https://video.foxnews.com/v/5806728724001#sp=show-clips>; Fox News, *Former Kavanaugh clerk slams Democrats' criticisms*, Oct. 6, 2018 <https://video.foxnews.com/v/5845318401001#sp=show-clips>.

<sup>4</sup> Walker Investiture, *Judge Justin Walker Investiture Part Four - Judge Walker Speech*, Youtube, Mar. 13, 2020, <https://www.youtube.com/watch?v=k5iUfudxuM8>.

<sup>5</sup> *Id.* at 5.