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June 15, 2020

U.S. Senate  
Washington, DC 20510

Dear Senator:

On behalf of our 3 million members and the 50 million students they serve, we strongly urge you to VOTE NO on Justin Walker’s nomination to the U.S. Court of Appeals for the District of Columbia Circuit. His record raises serious concerns about his ability to be a fair-minded and impartial judge, none of which the hearing on his nomination assuaged. Votes associated with this issue may be included in NEA’s Report Card for the 116th Congress.

Our nation is in crisis on three fronts. We are witnessing the largest and longest protests in decades, fueled by demands for racial justice and reform of America’s policing practices. We are confronting an economic downturn that could rival the Great Depression. And we are enduring the COVID-19 pandemic that has profound implications for student learning as well as public health. More than 2 million Americans have tested positive for the coronavirus and more than 115,000 have died from it, including scores of teachers and education support professionals. More than 40 million Americans are jobless. The unemployment rate is nearly 14 percent, the highest since the Great Depression.

The Senate should be dealing with these pressing issues, not rushing to vote on a politically motivated nomination to the U.S. Court of Appeals for the District of Columbia Circuit. If the vote nonetheless proceeds, Walker’s 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. Walker has already made it clear he believes the Affordable Care Act is unconstitutional<sup>1</sup> even though throwing out the law would leave millions with no health coverage—including those with preexisting conditions who are the most vulnerable to the coronavirus. 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 holds, 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 surrogate for

<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).

then-Judge Brett Kavanaugh. He regularly appeared on cable news shows, where he praised 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 and cultural warrior rather than an impartial judge. At his investiture on March 13, 2020, 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 allowing a Louisville church to hold an in-person Easter service and declaring Louisville’s stay at home order unconstitutional 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 he 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 directing taxpayer dollars to support sectarian schools—prohibitions that prevent public funding of sectarian schools and ensure that public funding goes only to 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 VOTE NO on Walker’s nomination to the U.S. Court of Appeals for the District of Columbia.

Sincerely,



Marc Egan  
Director of Government Relations  
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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.