

**STATE OF MINNESOTA  
IN COURT OF APPEALS**

**Case No. A17-0033**

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Tiffini Flynn Forslund; Justina Person;  
Bonnie Dominguez; and Roxanne Draughn,

Appellants,

vs.

State of Minnesota; Mark Dayton, in his  
official capacity as the Governor of the State  
of Minnesota; the Minnesota Department of  
Education; Brenda Cassellius, in her official  
capacity as the Commissioner of Education;  
St. Paul Public Schools, Independent School  
District 625; Anoka-Hennepin School District  
11; Duluth Public Schools, Independent School  
District 709; West St. Paul-Mendota Heights-  
Eagan Area Schools, Independent School  
District 197,

Respondents.

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**REQUEST FOR LEAVE TO  
PARTICIPATE AS *AMICI  
CURIAE* OF THE AMERICAN  
FEDERATION OF  
TEACHERS, AFL-CIO AND  
THE NATIONAL  
EDUCATION ASSOCIATION**

TO: The Court of Appeals of the State of Minnesota, Parties and Counsel of Record:

COMES NOW the American Federation of Teachers, AFL-CIO and the National Education Association, by and through their respective attorneys, and respectfully request that the Minnesota Court of Appeals grant them leave to participate as *amici curiae* in the above-captioned matter. This request is made pursuant to Rule 129 of the Minnesota Rules of Civil Appellate Procedure.

The American Federation of Teachers, AFL-CIO (hereinafter, AFT) is a labor union that represents 1.6 million pre-K through 12th-grade teachers; paraprofessionals

and other school-related personnel; higher education faculty and professional staff; federal, state and local government employees; nurses and healthcare workers; and early childhood educators. The AFT champions fairness; democracy; economic opportunity; and high-quality public education, healthcare and public services for our students, their families and our communities. It is committed to advancing these principles through community engagement, organizing, collective bargaining and political activism, and especially through the work our members do.

The National Education Association (hereinafter, NEA) is a national labor organization that represents some three million public school teachers, education support professionals and other education employees, the vast majority of whom serve in our public schools. NEA's core belief is that public education is the cornerstone of our social, economic, and political structure; and that students of all backgrounds have the right to quality public schools. The shared mission of NEA members is to work together for great public schools for every student.

AFT and NEA are able to offer to the Court our experience representing teachers across the country who enjoy the benefit of statutes nearly identical to those at issue in this case. *Amici's* members across the country rely on their earned employment protections to provide the best education possible for students. These protections are essential to maintaining a strong and stable teaching force and to ensuring that students receive the educational benefits that accompany such a force. The decision of the lower court to dismiss the appellants' complaint has a sound basis in law. An adoption of the appellants' position to strike down well-considered teacher employment statutes passed

by the Minnesota Legislature would threaten to destabilize public education employment policies in a way that will negatively impact public school students.

The interests of AFT and NEA in this litigation are both private and public as explained below. State teacher employment laws, like Minnesota's, have served, and continue to serve the purpose of insulating our members in the teaching profession from employment decisions based on patronage, favoritism, political retribution or other discriminatory reasons by ensuring the academic freedom of educators. These employment laws also serve the public purpose of empowering teachers to be advocates for their students, and in particular, to be advocates for the civil rights of their students.

AFT and NEA support Respondents' position because Minnesota is consistently rated as one of the states with the highest performing education systems. The State's employment statutes are, at the very least, partly responsible for Minnesota's relative performance. Student achievement gaps do exist but these are driven by continued socio-economic segregation and poverty where inadequate resources are devoted to help make up for the challenges faced by students from low-income families. Across the nation, states with employment statutes like Minnesota's experience dramatically greater outcomes for student achievement than states that have systems that mirror what the appellants seek in this case.

In the case before the Court, AFT and NEA will advocate for affirmance of the decision issued by Judge Marrinan of the District Court on November 9, 2016.

Employment protections like Minnesota's are vital to attracting and retaining a quality workforce, particularly in light of teachers' modest salaries. The need to attract and retain

teachers is critical in Minnesota. Minnesota's teacher shortage has become a crisis, and denying teachers employment protections will only make the crisis worse.

For all the above reasons, AFT and NEA respectfully request this Court to grant their request for leave to participate as *amici curiae* in the above-captioned matter.

Respectfully Submitted,

Dated: January 24, 2017

By: /s/Samuel J. Lieberman

SAMUEL J. LIEBERMAN (#0398700)

David J. Strom  
Samuel J. Lieberman (#0398700)  
AMERICAN FEDERATION OF TEACHERS, AFL-CIO  
555 New Jersey Avenue NW  
Washington, DC 20001  
(202) 393-7472  
[dstrom@aft.org](mailto:dstrom@aft.org)  
[sam.lieberman@aft.org](mailto:sam.lieberman@aft.org)

*Attorneys for Amicus Curiae*  
*American Federation of Teachers, AFL-CIO*

Alice O'Brien  
Emma Leheny  
Eric A. Harrington  
Amanda L. Shapiro  
NATIONAL EDUCATION ASSOCIATION  
1201 16th Street NW  
Washington, DC 20036-3290  
(202) 822-7018  
[eharrington@nea.org](mailto:eharrington@nea.org)

*Attorneys for Amicus Curiae*  
*National Education Association*