

# State Representative

# Don Hineman

## Don's Legislative Update

April 14, 2014

### The Debate About Due Process

A week ago the Kansas legislature passed and sent to Governor Brownback a bill that provides court-ordered equity funding for public schools. The urgency of passing that legislation made it possible for certain factions to attach some policy items to the legislation which had not been through the committee process. One of those items was the elimination of due process rights for teachers. Some have asserted that it really doesn't go that far... that the bill does not alter teacher's due process rights when they believe their constitutionally-guaranteed rights have been violated.

My response to that is "well yes, of course". Obviously a Kansas law cannot take away rights which are guaranteed in the federal constitution. But one point that is overlooked is that if the bill becomes law then teachers will lose the right to learn why they were fired. In the absence of that information it becomes more difficult to prove that one's constitutional rights have been violated.

But here's the thing: it is not the loss of their constitutional rights that has teachers throughout the state waking up in a cold sweat these days. It is the possibility that they could be fired for giving a failing grade to the daughter of the superintendent. Or that they could be let go for failing to start the son of the school board president on the basketball team. Or that they could be canned for advocating for a special needs child when the system is failing to provide the necessary resources for him to succeed. In each case there are no constitutional rights being violated, but the possibility of being fired for reasons other than competency is very real.

I believe that the current due process system for teachers deserves a close examination. There are far too many anecdotal reports of incompetent teachers remaining employed when nearly everyone agrees they are not effective teachers. Documenting their deficiencies and giving them a pathway to improvement ought to be achievable. And yet it appears the system frequently fails to work. Are administrators simply too busy or too distracted to properly identify, document, and communicate teacher inadequacies? I don't know, but I have to wonder. Or is the due process system just too cumbersome and demanding? Again, I don't know, and I wish these issues had been fully examined before the bill was passed.

If the bill becomes law it is very possible that the loss of teacher due process will act as an impediment to the larger question still before the courts – adequacy of educational opportunity for all public school students. If a teacher gives a passing grade to a student who does not deserve one or fails to advocate for a special needs child out of fear of losing their job, then the system will have failed those students. In short, the state will have failed



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Gov- Brownback  
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Highway Road Conditions  
511 (in Kansas)

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to provide adequate opportunity for those students to achieve their full potential, either academically or in their pursuit of a career later in life.

When incompetent teachers are identified there must be a workable system in place to allow for their removal. That is essential to providing adequate educational opportunity for all Kansas students. If they remain in their job then we have failed the students in that classroom. But I believe that we have also failed that teacher. No one wants to be incompetent at what they do, and if an individual is truly not cut out to be a teacher then they would be better off knowing that. Then they can move on with their lives and search for a career that better suits their talents and interests. Everyone gains when that happens.

One more thing bothers me about this whole debacle. Kansas ranks 42nd in the nation for average teacher salary. It now appears likely that teacher due process will be eliminated. Whether it is intended or not, there is a growing perception among teachers that they are not appreciated, and are in fact considered by some to be the enemy. That is truly unfortunate. Might the best and brightest teachers start thinking about pursuing another profession where they don't feel like a target? Might some bright young potential teachers have second thoughts about pursuing education as a career? I worry a great deal about both possibilities. If my fears are valid then we will have diminished public education in Kansas and we will have failed to provide the best possible education for Kansas children.

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### **Cowboy Logic**

Everyone seems normal until you get to know them.

### **Quote of the week**

"There is only one way to avoid criticism: do nothing, say nothing, and be nothing." – *Aristotle*

### **Sermon in a sentence**

The reward of a thing well done is having done it..

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### **Representative Don Hineman**

Visit My Website at <http://www.hinemanforkansas.org/>

116 S. Longhorn Road  
Dighton, Kansas 67839  
Phone: 620-397-2504  
Fax: 620-397-755  
Email: [dhineman@st-tel.net](mailto:dhineman@st-tel.net)

Room 50A, State Capitol Building  
300 SW 10th Street  
Topeka, Kansas 66612  
Phone: 785-296-7636  
Email: [don.hineman@house.ks.gov](mailto:don.hineman@house.ks.gov)

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