

Claims vs. Facts: Correcting MCPP Misinformation

The Mississippi Center for Public Policy (MCPP) has published on its website and distributed publicly some misleading information about the Better Schools, Better Jobs school funding amendment (Ballot Initiative 42). To clarify:

From MCPP Website and Flyer	The Facts on Initiative 42
<p>1. This amendment says nothing about funding. While the phrase, "establishment, maintenance and support" could be construed to be related to funding, that phrase is already in the Constitution. This amendment does not propose to change that phrase.</p>	<p>The amendment says that the State of Mississippi is responsible for the "...maintenance and support of an adequate and efficient system of free public schools." Clearly, the words "maintenance and support" mean funding. The more important word, however, is "adequate." Contrary to every other state in the U.S., Mississippi's Constitution currently does not require that children be provided an adequate education, only a free one. The amendment states that our children should be provided at least an adequate education.</p> <p>The amendment leaves it up to the Legislature to determine how it will establish, maintain and support an adequate and efficient system of public education, but it requires the Legislature to provide support (funding) for an adequate education.</p>
<p>2. The last sentence in the amendment gives the power to "the chancery courts of this state." Because the State of Mississippi would be the defendant in any lawsuit filed to enforce this section of the Constitution, the lawsuit would have to be filed in Hinds County Chancery Court. There are four Hinds County Chancery Judges, each of whom is elected only by the citizens of a district of the county. One of these judges would be assigned to hear the case, meaning a judge from the Jackson area, who is elected by a small number of people in Hinds County, would have full authority to decide not only how much money is sufficient but how the money is to be spent. The Legislature would have no ability to limit the impact of the judge's rulings (see below).</p>	<p>Chancery courts are specified in order to prevent lawsuits for damages. Chancery courts would have the power to enforce the law to adequately fund public schools. A court ruling would simply require the Legislature to follow the law and the Constitution.</p> <p>Under current law, venue for a lawsuit against the State of Mississippi is in Jackson, the state capital, which is in Hinds County. The Legislature could pass legislation establishing chancery court venue where the school district is located. In other words, if the Legislature does not want to be sued in a Hinds County Chancery Court, it could change that by statute.</p>
<p>3. The amendment places no limits on the Hinds County judge who hears such a lawsuit. The judge could, as the initiative's proponents seem to anticipate, require the Legislature to "fully fund" the MAEP formula and to phase-in the increased funding over seven years. However, the judge could also choose to require the Legislature to double, or even triple, the MAEP funding. The judge could also decide that high-performing districts are getting enough from the state and order the state to give any "new" money to low-performing districts until they catch up. Furthermore, because the amendment does not limit the judge's reach, and because it gives the judge jurisdiction over a "system" of schools, he or she would have full authority to dictate to the state department of education and local school districts exactly how the money should be spent at the state and local level.</p>	<p>Clearly, opponents of the amendment seem to believe that their best option for defeating it is fear-mongering about chancery judges in Hinds County. The powers of these judges are limited and checked by the Constitution itself. Either party in a suit can request that the case be heard by a jury. The bottom line is that a lawsuit would be necessary only if the Legislature ignores the law and the Constitution, thwarting the will of Mississippi voters regarding public school funding.</p> <p>The court's decision would have to be based on the facts presented by each side. The chancery court ruling can be appealed to the Mississippi Supreme Court for a final ruling. This procedure is current law. A chancery court makes the final decision only if there is no appeal, which is highly unlikely, and as stated in #2 above, the Legislature can change the lawsuit location to a county other than Hinds.</p>

<p>4. The amendment makes no mention of a phase-in or any other timing. A lawsuit could be filed immediately after the amendment is adopted, and a ruling could come in the first year following its passage, requiring the Legislature to adopt whatever budget is dictated by the judge. This would require drastic cuts to all other government agencies, or it would require a tax increase. Our state Constitution prohibits judges from ordering a tax increase at any level of government, but a mandated spending increase could, in effect, require a tax increase if cutting all other programs proved to be politically impossible. It is estimated that all agencies other than the Department of Education would have to be cut about 17 percent, and that's only if the judge orders "full funding" of the current MAEP formula. Those cuts would include IHL, Community Colleges, Medicaid, Corrections, and virtually everything else. If any of those were excluded from the cuts, then other agencies would be cut more deeply.</p>	<p>This claim is meant to mislead people about the amendment process. The petition that has been signed by more than 188,000 Mississippians includes a full description of the process. The Legislature will continue to have 100% discretion on how it will fully fund our K-12 schools. Under the ballot's financial proposal, any increases in school funding would be wholly dependent upon state revenue increases. In any year when revenue increases, not less than 25 percent of that increase would be devoted to public education. This process would continue, every year the state has revenue increases, until school funding reaches an adequate level. At the current trend of 3 percent annual revenue growth, adequate school funding would be reached in seven years. NO tax increases, NO automatic cuts for other agencies.</p>
<p>5. The proposed amendment - in three places - deletes the authority of the Legislature to determine any aspect of education policy or funding. This is critically important, because state and federal courts generally determine the will of the voters by noticing the words that were deleted by a Constitutional amendment as well as the words that were added. Education would no longer be ruled "by general law" passed by the Legislature and signed by the governor, and the Legislature would no longer be allowed to place "conditions and limitations" on the funding or performance of public schools. In other words, a Hinds County judge, elected by a few, would have more power than the Legislature, elected by all the people of the state to set education policy for Mississippi.</p>	<p>This amendment does not delete the authority of the Legislature to determine any aspect of education policy or funding. It says nothing about education policy. Similar to what is already in place in many other states, the amendment says only that the state must have an adequate and efficient system of public education for our children. The Legislature has the power and authority to determine what is adequate and efficient. Under our checks and balances system of government, if the Legislature does not meet its Constitutional mandate, then the citizens of this state have the opportunity to ask a court whether or not the Legislature has met its Constitutional mandate.</p>