Samuel D. Zurier: Constitutional Convention can boost school reform

Published: October 14, 2014 01:00 AM

BY SAMUEL D. ZURIER

Over the past 12 months, Rhode Island lost six years of progress toward its goal of high-quality public education for all. When last school year began, the Board of Education declared that the graduating class would be the first to receive diplomas tied in part to achievement on statewide assessments.

As the school year advanced, it became clear that the fallout from this requirement (especially for children from disadvantaged backgrounds and/or with special needs) was too severe, and the General Assembly postponed the goal until 2017. In August, the commissioner of education concluded that even the General Assembly's schedule was too aggressive, and postponed the program three more years, to 2020.

Rhode Island's chronic inability to achieve its public education goals is not inevitable. Indeed, we need only look across our border to see where we could and should be. As part of the country's highest-rated elementary and secondary education program (as measured by the National Assessment of Education Progress), Massachusetts provides almost every child with access to a public education that meets rigorous achievement standards for graduation.

The difference between our two states' education systems is a recent phenomenon. Two decades ago, Massachusetts and Rhode Island were relatively near each other in NAEP test scores. Then, during the late 1990s, the Bay State vaulted past the Ocean State to its position of national leadership, while we remained mired in mediocrity.

How and why did this happen? I believe the answer lies in two court cases from that period, in which the Massachusetts Supreme Judicial Court found public education to be a fundamental right under its Constitution, while our Supreme Court found no such protection in our Constitution.

The Massachusetts legislature constructed the platform for educational progress when it enacted the Education Reform Act of 1993. Through that path-breaking legislation, all of the constituent adult members of the educational community put aside selfish concerns in favor of the welfare of children.

Legislators agreed to target state resources and technical assistance toward genuine student needs rather than political expediency. School districts and school committees agreed to yield local prerogatives to commit to state standards. Teachers agreed to accept clear accountability standards to ensure that every child would receive a high-quality education.

The necessary and sufficient impetus for this "grand bargain" was the Massachusetts Supreme Judicial Court's landmark McDuffy decision earlier that year, in which the court declared that the Massachusetts Constitution protected the right of its children to a high-quality public education. Shortly after, the legislature realized it finally had the political cover to approve a plan that put children first.

Sadly, Rhode Island missed its opportunity to follow the Bay State's path when our Supreme Court decided, in the 1995 Pawtucket v. Sundlun decision, that Rhode Island's Constitution did not contain such a right. While this interpretation was not inevitable (the Superior Court had reached a different conclusion), the results were devastating.

In the years that have followed, Rhode Island has lacked the political will to enact the "grand bargain" that Massachusetts achieved two decades ago. When Pawtucket and Woonsocket's school committees recently asked the Supreme Court to review the Sundlun decision in light of two decades of stalemate, the court essentially held that it could not intervene no matter how inadequate or inequitable public education becomes in our state.

Our Constitution's inadequacy also has damaged our state's standing in the national civil-rights community. Sadly, our backward-looking Constitution adds a further insult to the injuries our children receive from our structural inability to enact effective educational policies. This fall, we have the power to amend our Constitution to make education a fundamental value.

Ironically, some entrenched interests seek to scare voters away from a Constitutional Convention by conjuring up an imagined threat to existing civil rights. Contrary to their fear-mongering, there are three important checks on any convention's impairment of existing civil rights. First, the delegates are popularly elected. Second, any amendments the delegates propose must be approved by a majority of the voters. Third, any amendments approved by the voters will be limited by the Bill of Rights, which cannot be abridged by any state proceedings.

It is outrageous that these opponents, who would deny our children the civil right of education, frame their arguments around a theoretical threat to existing civil rights that does not exist in actual or practical fact.

This November, we can stand up for our children by voting yes on Question 3, so that we can have the opportunity to vote to add this fundamental civil right to our state's Constitution.

Samuel D. Zurier is a member of the Providence City Council. He argued the Woonsocket vs. Chafee case decided by the Rhode Island Supreme Court this spring.