STATE OF MINNESOTA

IN SUPREME COURT

A16-1265

Court of Appeals

Hudson, J.
Dissenting, Anderson, J., Gildea, C.J.
Took no part, Thissen, J.

Alejandro Cruz-Guzman, as guardian and
next friend of his minor children, et al.,

Appellants/Cross-Respondents,

vs.

Filed: July 25, 2018
Office of Appellate Courts

State of Minnesota, et al.,

Respondents/Cross-Appellants,

and

Higher Ground Academy, et al.,

Defendants-Intervenors.

Daniel R. Shulman, Joy Reopelle Anderson, Richard C. Landon, Kathryn E. Hauff, Gray, Plant, Mooty, Mooty & Bennett, P.A., Minneapolis, Minnesota;

John G. Shulman, Jeanne-Marie Almonor, Minneapolis, Minnesota;

Mel C. Orchard, III, The Spence Law Firm, LLC, Jackson, Wyoming; and

James Cook, Law Office of John Burris, Oakland, California, for appellants/cross-respondents.

Lori Swanson, Attorney General, Karen D. Olson, Deputy Attorney General, Kathryn M. Woodruff, Kevin A. Finnerty, Assistant Attorneys General, Saint Paul, Minnesota, for respondents/cross-appellants.

Jack Y. Perry, Michael W. Kaphing, Briggs and Morgan, P.A., Minneapolis, Minnesota; and

John Cairns, John Cairns Law, P.A., Minneapolis, Minnesota, for amici curiae Higher Ground Academy, et al.

Teresa J. Nelson, John B. Gordon, American Civil Liberties Union of Minnesota, Saint Paul, Minnesota; and

William Z. Pentelovich, Jesse D. Mondry, Maslon LLP, Minneapolis, Minnesota, for amicus curiae American Civil Liberties Union of Minnesota.

Will Stancil, Minneapolis, Minnesota, for amici curiae Concerned Law Professors.

Eli M. Temkin, Jones Day, Minneapolis, Minnesota, Todd R. Geremia, James M. Gross, Jones Day, New York, New York;

David G. Sciarra, Education Law Center, Newark, New Jersey; and

Derek W. Black, Columbia, South Carolina, for amici curiae Education Law Center and the Constitutional and Education Law Scholars.

Lewis A. Remele, Jr., Kate L. Homolka, Bassford Remele, Minneapolis, Minnesota, for amici curiae Tiffini Flynn Forslund, et al.

Myron Orfield, Minneapolis, Minnesota, for amicus curiae Myron Orfield.

S Y L L A B U S

1. Appellants' claims alleging violations of the Education Clause of the Minnesota Constitution, Minn. Const. art. XIII, § 1, are justiciable.

2. Appellants' claims alleging violations of the Equal Protection and Due Process Clauses of the Minnesota Constitution, Minn. Const. art. I, §§ 2, 7, are justiciable.

3. The protections of the Speech or Debate Clause of the Minnesota Constitution, Minn. Const. art. IV, § 10, do not extend to claims that the Legislature has violated its duty under the Education Clause of the Minnesota Constitution, Minn. Const. art. XIII, § 1, or violated the Equal Protection or Due Process Clauses of the Minnesota Constitution, Minn. Const. art. I, §§ 2, 7.

4. The district court did not err when it denied the State's motion seeking to dismiss the complaint for failure to join school districts and charter schools as parties.

Reversed.

O P I N I O N

HUDSON, Justice.

In this appeal, we must decide whether claims alleging that the State has failed to provide students with an adequate education are justiciable. Appellants, who are primarily parents of children enrolled in Minneapolis and Saint Paul public schools, brought a putative class-action complaint on behalf of their children against respondents State of Minnesota and other State entities and officials. Appellants claim that the State has violated the Education, Equal Protection, and Due Process Clauses of the Minnesota Constitution. The State moved to dismiss the complaint on multiple grounds. The district court partially granted and partially denied the State's motion. The State filed an interlocutory appeal, and the court of appeals reversed, concluding that the complaint's claims present a nonjusticiable political question. We hold that separation-of-powers principles do not prevent the judiciary from ruling on whether the Legislature has violated its duty under the Education Clause or violated the Equal Protection or Due Process

Clauses of the Minnesota Constitution. We also hold that the district court did not err when it denied the State's motion seeking to dismiss the complaint based on legislative immunity and the failure to join necessary parties. We therefore reverse the decision of the court of appeals.

FACTS

In November 2015, appellants Alejandro Cruz-Guzman, et al.,[1] commenced an action against respondents State of Minnesota, the Minnesota Senate, the Minnesota House of Representatives, the Minnesota Department of Education, and Dr. Brenda Cassellius, the Commissioner of Education (collectively, the State).[2] Appellants seek to represent "a class of children enrolled, or expected to be enrolled during the pendency of this action, in the Minneapolis Public Schools, Special School District No. 1, and the Saint Paul Public

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[1] Appellants are Alejandro Cruz-Guzman, as guardian and next friend of his minor children; Me'Lea Connelly, as guardian and next friend of her minor children; Ke'Aundra Johnson, as guardian and next friend of her minor child; Izreal Muhammad, as guardian and next friend of his minor children; Roxxanne O'Brien, as guardian and next friend of her minor children; Diwin O'Neal Daley, as guardian and next friend of his minor children; Lawrence Lee, as guardian and next friend of his minor child; and One Family One Community, a Minnesota nonprofit corporation.

[2] Appellants also brought claims against defendants Governor Mark Dayton; Sandra L. Pappas, President of the Minnesota Senate; and Kurt Daudt, Speaker of the Minnesota House of Representatives. The district court dismissed Governor Dayton from this suit based on separation-of-powers concerns. The district court also dismissed the two individual legislators, concluding that they are "immune in this suit" under the Speech or Debate Clause of the Minnesota Constitution, Minn. Const. art. IV, § 10. The dismissal of these defendants is not at issue in this appeal.

The intervenors in the district court are three charter schools in Minneapolis and Saint Paul and parents of students who attend those charter schools: Higher Ground Academy, Mohamed Abdilli, Friendship Academy of the Arts, Sharmaine Russell, Paladin Career and Technical High School, and Rochelle LaVanier.

Schools, Independent School District 625." When we review the denial of a motion to dismiss, we consider only the facts alleged in the complaint, and we accept those facts as true. *See Gretsch v. Vantium Capital, Inc.*, 846 N.W.2d 424, 429 (Minn. 2014).

The complaint contains copious data demonstrating a "high degree of segregation based on race and socioeconomic status" in Minneapolis and Saint Paul public schools. The public schools in Minneapolis and Saint Paul that appellants' children and other school-age children attend are "disproportionately comprised of students of color and students living in poverty, as compared with a number of neighboring and surrounding schools and districts." These segregated and "hyper-segregated" schools have significantly worse academic outcomes in comparison with neighboring schools and suburban school districts in measures such as graduation rates; pass rates for state-mandated Basic Standards Tests; and proficiency rates in math, science, and reading. Appellants describe these racially and socioeconomically segregated schools as "separate and unequal" from "neighboring and surrounding whiter and more affluent suburban schools" and detail the extensive harms of racial and socioeconomic segregation.

Appellants highlight several practices by the Minneapolis and Saint Paul public schools, other school districts, charter schools, and the State as contributing to school segregation and inadequate educational outcomes. The practices include boundary decisions for school districts and school attendance areas; the formation of segregated charter schools and the decision to exempt charter schools from desegregation plans; the use of federal and state desegregation funds for other purposes; the failure to implement effective desegregation remedies; and the inequitable allocation of resources.

Appellants assert that the State has violated its constitutional duty under the Education Clause of the Minnesota Constitution, Minn. Const. art. XIII, § 1. Appellants contend that in addition to failing to fulfill its constitutional duty under the Education Clause, the State has violated the Equal Protection and Due Process Clauses of the Minnesota Constitution, Minn. Const. art. I, §§ 2, 7, by enabling school segregation and depriving students of their fundamental right to an adequate education.

The complaint requests declaratory and injunctive relief. Specifically, appellants have asked the district court to permanently enjoin the State from "continuing to engage in the violations of law," to order the State to "remedy the violations of law," and to order the State "to provide the [students] forthwith with an adequate and desegregated education." Appellants did not bring any direct claims against either the Minneapolis Public Schools or the Saint Paul Public Schools, and do not directly seek any remedies from any school district or charter school.

The State moved to dismiss the complaint on multiple grounds, including lack of subject matter jurisdiction, failure to state a claim upon which relief can be granted, and failure to join all interested persons. The district court concluded that *Skeen v. State*, 505 N.W.2d 299 (Minn. 1993), had "already held that Minnesota's Education Clause creates a fundamental right to education which will subject any state action that allegedly violates that right, including action by the legislature, to strict *judicial* scrutiny." The district court dismissed certain defendants from the action and dismissed the claims brought under the Minnesota Human Rights Act, but otherwise denied the motion to dismiss.

The State filed an interlocutory appeal, raising the following issues: (1) whether the district court erred by refusing to dismiss the complaint for lack of justiciability; (2) whether the district court erred by refusing to dismiss the claims against the Minnesota Senate and House of Representatives based on legislative immunity; and (3) whether the district court erred by refusing to dismiss the complaint for failure to join individual school districts and charter schools as parties.

The court of appeals reversed, holding that appellants' claims "present a nonjusticiable political question." *Cruz-Guzman v. State*, 892 N.W.2d 533, 541 (Minn. App. 2017). While acknowledging that segregation claims are justiciable, the court decided that all of appellants' claims are "rooted in a purported right to an education of a certain quality." *Id.* at 536–37 n.1. The court concluded that resolving appellants' claims would "require[] establishment of a qualitative educational standard, which is a task for the legislature and not the judiciary." *Id.* at 541. Accordingly, the court reversed the district court's order refusing to dismiss appellants' case for lack of justiciability. *Id.* Because the court's ruling on justiciability was dispositive, the court did not address the State's other arguments concerning legislative immunity or the failure to join necessary parties. *See id.* at 536, 541.

We granted appellants' petition for further review, which raised the justiciability issue. We also granted the State's request for conditional cross-review, which asked us to review the legislative immunity and joinder issues.

ANALYSIS

This case comes to us on the State's appeal from the district court's order denying the State's motion to dismiss. A district court order denying a motion to dismiss for failure to state a claim is generally not immediately appealable as of right. *See* Minn. R. Civ. App. P. 103.03; *Kokesh v. City of Hopkins*, 238 N.W.2d 882, 884 (Minn. 1976).[3] Immediate appellate review is available, however, for orders denying a motion to dismiss for lack of subject matter jurisdiction, government immunity, or the nonjoinder of necessary parties. *See Kastner v. Star Trails Ass'n*, 646 N.W.2d 235, 238 (Minn. 2002) (explaining that interlocutory appeal is available to review issues of subject matter jurisdiction and government immunity); *Hunt v. Nev. State Bank*, 172 N.W.2d 292, 301 (Minn. 1969) (holding that there is "an appeal of right" from an order denying a motion to dismiss for nonjoinder of an indispensable party). We review de novo the district court's decision on the State's motion to dismiss. *Park Nicollet Clinic v. Hamann*, 808 N.W.2d 828, 831 (Minn. 2011). We "consider only the facts alleged in the complaint, accepting those facts as true[,] and must construe all reasonable inferences in favor of the nonmoving party." *Bodah v. Lakeville Motor Express, Inc.*, 663 N.W.2d 550, 553 (Minn. 2003).

[3] The court of appeals denied the State's petition seeking discretionary review of the district court's refusal to dismiss appellants' claims on the merits. *Cruz-Guzman v. State*, No. A16-1267, Order at 2, 4 (Minn. App. filed Sept. 13, 2016). The merits of appellants' claims are therefore not before us.

I.

We turn first to the justiciability of appellants' claims that the State has failed to meet its obligations under the Education Clause, Article XIII, Section 1 of the Minnesota Constitution.

The presence of a justiciable controversy is "essential to our exercise of jurisdiction." *Bicking v. City of Minneapolis*, 891 N.W.2d 304, 308 (Minn. 2017) (citation omitted) (internal quotation marks omitted). Justiciability is separate and distinct from the merits of the case. *See McCaughtry v. City of Red Wing*, 808 N.W.2d 331, 341 (Minn. 2011). The State argues that appellants' claims present a political question that is not justiciable—that is, not "appropriate or suitable for adjudication by a court." *Justiciability*, *Black's Law Dictionary* (10th ed. 2014). Justiciability is a question of law that we review de novo. *McCaughtry*, 808 N.W.2d at 337. In addition, the interpretation of the constitution is a purely legal issue that we review de novo. *Ninetieth Minn. State Senate v. Dayton*, 903 N.W.2d 609, 617 (Minn. 2017).

The complaint specifies that appellants brought this lawsuit under the Education Clause of the Minnesota Constitution, which provides:

> The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.

Minn. Const. art. XIII, § 1. Appellants assert that the Legislature has violated the duty imposed upon it by the Education Clause.

Although we have not had many occasions to interpret or apply the Education Clause, we have consistently adjudicated claims asserting violations of the Clause. In the earliest case, decided almost 150 years ago, we stated that the object of the constitutional clause on education "is to ensure a regular method throughout the state, whereby all may be enabled to acquire an education which will fit them to discharge intelligently their duties as citizens of the republic." *Bd. of Educ. of Sauk Ctr. v. Moore*, 17 Minn. 412, 416 (1871).

In another early case, we held that the education system provided by the Legislature did not violate the Education Clause when it "afford[ed] upon like terms the means for obtaining a common-school education to all resident scholars of the requisite age" and "ha[d] a general and uniform application to the entire state, so that the same grade or class of public schools [could] be enjoyed by all localities similarly situated." *Curryer v. Merrill*, 25 Minn. 1, 6 (1878).

In our most recent case involving the Education Clause, decided 25 years ago, we held that because the plaintiffs were "unable to establish that the basic system [was] inadequate" and "the existing system continue[d] to meet the basic educational needs of all districts," there was no "constitutional violation of the state constitutional provisions which require the state to establish a 'general and uniform system of public schools' which will secure a 'thorough and efficient system of public schools.' " *Skeen v. State*, 505 N.W.2d 299, 312 (Minn. 1993). In all of these cases, we resolved Education Clause claims; we did not dismiss these claims as nonjusticiable.

Here, the court of appeals focused on our refusal in those previous cases to "engage in educational-policy determinations" and held that appellants' Education Clause claims

present a nonjusticiable political question. *Cruz-Guzman*, 892 N.W.2d at 540.[4] We have defined a political question as "a matter which is to be exercised by the people in their primary political capacity," or a matter that "has been specifically delegated to some other department or particular officer of the government, with discretionary power to act." *In re McConaughy*, 119 N.W. 408, 417 (Minn. 1909). Under separation-of-powers principles, the judiciary cannot "exercise any of the powers properly belonging" to the Legislature unless "expressly provided" in the Minnesota Constitution. Minn. Const. art. III, § 1.

There is no dispute that the Minnesota Constitution assigns to the Legislature responsibility for establishing a public school system. Minn. Const. art. XIII, § 1; *see Bd. of Educ. of Minneapolis v. Erickson*, 295 N.W. 302, 303 (Minn. 1940) ("By our constitution the mandate of establishing a general and uniform system of public schools was directed to the legislature."). To be sure, we have long held that matters of educational policy are matters that fall within legislative authority. *Curryer*, 25 Minn. at 5. However, we have also explained that the Education Clause constitutes "a mandate to the Legislature," "not a grant of power." *Associated Schs. of Indep. Dist. No. 63 v. Sch. Dist. No. 83*, 142 N.W. 325, 327 (Minn. 1913); *see also State ex rel. Smith v. City of St. Paul*, 150 N.W. 389, 391 (Minn. 1914) (describing the provisions of the Education Clause as

[4] The court of appeals concluded that this case presents a nonjusticiable political question based on the Supreme Court's analysis in *Baker v. Carr*, which identified six circumstances that federal courts should examine in deciding whether a case presents a political question. 369 U.S. 186, 217 (1962). The court of appeals held that the claims here "are so enmeshed with political elements that they present a nonjusticiable political question." *Cruz-Guzman*, 892 N.W.2d at 540. We have not adopted the Supreme Court's analysis in *Baker v. Carr* to resolve whether a case presents a political question, and we decline to do so here.

"mandates" that prescribe a "specified duty"). In fact, the Education Clause is the only section of the Minnesota Constitution that imposes an explicit "duty" on the Legislature. *See Skeen*, 505 N.W.2d at 313.

Although specific determinations of educational policy are matters for the Legislature, it does not follow that the judiciary cannot adjudicate whether the Legislature has satisfied its constitutional duty under the Education Clause. Deciding that appellants' claims are not justiciable would effectively hold that the judiciary cannot rule on the Legislature's noncompliance with a constitutional mandate, which would leave Education Clause claims without a remedy. Such a result is incompatible with the principle that where there is a right, there is a remedy. *See State v. Lindquist*, 869 N.W.2d 863, 873 (Minn. 2015) ("The right to a remedy for wrongs is '[a] fundamental concept of our legal system and a right guaranteed by our state constitution.' " (alteration in original) (quoting *Anderson v. Stream*, 295 N.W.2d 595, 600 (Minn. 1980))); *cf. Associated Schs. of Indep. Dist. No. 63*, 142 N.W. at 328 ("The creation of the obligation carries with it by necessary implication the right to its enforcement.").

Providing a remedy for Education Clause violations does not necessarily require the judiciary to exercise the powers of the Legislature. Appellants stress that their complaint "does not actually ask the court to institute any specific policy." Rather, their prayer for relief asks the district court to find, adjudge, and decree that the State has engaged in the claimed constitutional violations. Although appellants have also asked the district court to permanently enjoin the State "from continuing to engage in" the claimed constitutional violations and to order the State to "remedy" those violations, they "have consistently

acknowledged that it is not the court's function to dictate to the Legislature the manner with which it must correct its constitutional violations."

In essence, appellants' claims ask the judiciary to answer a yes or no question—whether the Legislature has violated its constitutional duty to provide "a general and uniform system of public schools" that is "thorough and efficient," Minn. Const. art. XIII, § 1, and "ensure[s] a regular method throughout the state, whereby all may be enabled to acquire an education which will fit them to discharge intelligently their duties as citizens of the republic," *Bd. of Educ. of Sauk Ctr.*, 17 Minn. at 416. To resolve this question, the judiciary is not required to devise particular educational policies to remedy constitutional violations, and we do not read appellants' complaint as a request that the judiciary do so. Rather, the judiciary is asked to determine whether the Legislature has violated its constitutional duty under the Education Clause. We conclude that the courts are the appropriate domain for such determinations and that appellants' Education Clause claims are therefore justiciable.

Our conclusion rests upon a firm foundation. *See Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803) ("It is, emphatically, the province and duty of the judicial department, to say what the law is."). It is well within the province of the judiciary to adjudicate claims of constitutional violations. *See, e.g., Holmberg v. Holmberg*, 588 N.W.2d 720, 726 (Minn. 1999). Although the Legislature is one of our co-equal branches of government, the legislative branch is "subject to the limitations imposed by the constitution; and, whenever it has clearly transcended those limitations," we have held

that "it is the duty of the judiciary to so declare." *Rippe v. Becker*, 57 N.W. 331, 336 (Minn. 1894).

In other words, although the constitution assigns to the Legislature the duty of establishing "a general and uniform system of public schools," Minn. Const. art. XIII, § 1, the interpretation of the constitution's language "is a judicial, not a legislative, question," *Schowalter v. State*, 822 N.W.2d 292, 301 (Minn. 2012). *See also Rhodes v. Walsh*, 57 N.W. 212, 213 (Minn. 1893) (explaining that "the meaning or interpretation of a constitutional provision . . . is for the judiciary to determine," even when the issue implicates privileges claimed by members of the Legislature).

This case asks the judiciary to make the same type of determination we have made repeatedly: whether the Legislature has satisfied its constitutional obligation under the Education Clause. *See Skeen*, 505 N.W.2d at 312; *State ex rel. Klimek v. Sch. Dist. No. 70*, 283 N.W. 397, 398–99 (Minn. 1939); *Curryer*, 25 Minn. at 6; *Bd. of Educ. of Sauk Ctr.*, 17 Minn. at 416. We agree with the district court that "there is no breach of the separation of powers for the [judiciary] to determine the basic issue of whether the Legislature is meeting the affirmative duty that the Minnesota Constitution places on it."[5]

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[5] The State cites to decisions of other state supreme courts, which it describes as "dismiss[ing] similar complaints on justiciability grounds." *See, e.g.*, *Comm. for Educ. Rights v. Edgar*, 672 N.E.2d 1178, 1190–93 (Ill. 1996); *Neb. Coal. for Educ. Equity & Adequacy v. Heineman*, 731 N.W.2d 164, 176–83 (Neb. 2007); *Okla. Educ. Ass'n v. State ex rel. Okla. Legislature*, 158 P.3d 1058, 1065–66 (Okla. 2007); *Marrero ex rel. Tabalas v. Commonwealth*, 739 A.2d 110, 113–14 (Pa. 1999). As appellants note, these cases are distinguishable because there are "significant differences in the language used in each state constitution." For example, the Nebraska Constitution simply provides that "it shall be the

Accordingly, we hold that appellants' constitutional claims under the Education Clause do not present a political question and are therefore justiciable.

II.

Appellants also claim that the State has denied them equal protection of the laws and due process, violating the Equal Protection and Due Process Clauses of the Minnesota Constitution. *See* Minn. Const. art. I, §§ 2, 7. Appellants assert that students are "confined to schools that are separate and segregated," that "such schools are separate and unequal," and that the State "ha[s] engaged in or permitted" practices that "have caused or contributed to the segregation of the Minneapolis and Saint Paul public schools." The complaint contains numerous facts that specifically support appellants' claims of segregation. Claims based on racial segregation in education are indisputably justiciable. *See Brown v. Bd. of Educ.*, 347 U.S. 483, 495 (1954).[6]

Appellants further allege that they have been denied equal protection of the law and due process because the State has impinged on their fundamental right to an adequate education. Appellants argue that these claims are justiciable based on *Skeen*, 505 N.W.2d 299, in which we held that students have a fundamental right to an adequate education

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duty of the Legislature to pass suitable laws . . . to *encourage* schools and the means of instruction." Neb. Const. art. I, § 4 (emphasis added).

[6] The dissent concedes that a claim of segregated schools is justiciable, but maintains that appellants' claims are not "traditional" segregation claims and therefore the claims are not justiciable. It is self-evident that a segregated system of public schools is not "general," "uniform," "thorough," or "efficient." Minn. Const. art. XIII, § 1. Regardless of whether the context is a "traditional" segregation claim or a different type of claim, courts are well equipped to decide whether a school system is segregated, and have made such determinations since *Brown*, 347 U.S. at 495.

under the Minnesota Constitution. In appellants' view, their complaint simply asks the judiciary to rule on whether the State has impinged upon that fundamental right.

The State emphasizes that the Education Clause does not "include a qualitative component," and argues that even if there were an adequacy requirement, defining the applicable qualitative standard would be a matter for the Legislature, not the judiciary. The State maintains that the Minnesota Constitution "provides no principled basis for a judicial definition of [a] high quality" education. Therefore, the State contends that the relief requested by appellants would impermissibly require the judiciary to establish educational policy. The court of appeals agreed, concluding that even if students in Minnesota have a constitutional right to an adequate education, resolving appellants' claims would require the judiciary "to define the qualitative standard," which it viewed as a policy matter "entrusted to the elected representatives in our legislature and local branches of government." *Cruz-Guzman*, 892 N.W.2d at 538, 541.

We held in *Skeen* that "education *is* a fundamental right under the state constitution, not only because of its overall importance to the state but also because of the explicit language used to describe this constitutional mandate." 505 N.W.2d at 313. We specifically stated that "there is a fundamental right, under the Education Clause, to a 'general and uniform system of education' which provides an adequate education to all students in Minnesota." *Id.* at 315. We declared that the Education Clause "requires the state to provide enough funds to ensure that each student receives an adequate education and that the funds are distributed in a uniform manner." *Id.* at 318. We concluded that "[b]ecause the [then-existing] system provide[d] uniform funding to each student in the

state in an amount sufficient to generate an adequate level of education which meets all state standards, the state ha[d] satisfied its constitutionally-imposed duty of creating a 'general and uniform system of education.' " *Id.* at 315.[7] The fundamental right recognized in *Skeen* was not merely a right to anything that might be labeled as "education," but rather, a right to a general and uniform system of education that is thorough and efficient, that is supported by sufficient and uniform funding, and that provides an adequate education to all students in Minnesota.

The dissent states that "nowhere in the plain language of the state constitution do the words 'adequate education' appear." Although that exact phrase does not appear, the opening words of the Education Clause focus on "the intelligence of the people." Minn. Const. art. XIII, § 1. The framers could not have intended for the Legislature to create a system of schools that was "general and uniform" and "thorough and efficient" but that produced a wholly inadequate education. *Id.* Long before *Skeen*, we recognized that the people of Minnesota have a right to "an education which will fit them to discharge *intelligently* their duties as citizens of the republic." *Bd. of Educ. of Sauk Ctr.*, 17 Minn. at 416 (emphasis added). An education that does not equip Minnesotans to discharge their

[7] The dissent concludes that "the references to an 'adequate education' in *Skeen* are dicta." We disagree. This discussion of adequacy was not dicta; it was a necessary step in the court's analysis. The court considered the challenge to the financing of the education system only "[o]nce [the] baseline level of adequacy and uniformity ha[d] been established." *Skeen*, 505 N.W.2d at 315. Furthermore, when we have expressed an opinion in a decision, that opinion should not be lightly disregarded, especially when the court does not characterize it as superfluous to the ultimate holding. *State v. Heinonen*, 909 N.W.2d 584, 589 n.4 (Minn. 2018).

duties as citizens intelligently cannot fulfill the Legislature's duty to provide an adequate education under the Education Clause.

Of course, some level of qualitative assessment is necessary to determine whether the State is meeting its obligation to provide an adequate education. This assessment is an intrinsic part of our power to interpret the meaning of the constitution's language. *See Schowalter*, 822 N.W.2d at 301. The very act of defining the terms used in the Education Clause and determining whether the constitutional requirements have been met inevitably requires a measure of qualitative assessment. *See Pauley v. Kelly*, 255 S.E.2d 859, 874−77 (W. Va. 1979) (defining "thorough," "efficient," and "education" to determine compliance with state constitutional requirements).

We cannot fulfill our duty to adjudicate claims of constitutional violations by unquestioningly accepting that whatever the Legislature has chosen to do fulfills the Legislature's duty to provide an adequate education. If the Legislature's actions do not meet a baseline level, they will not provide an adequate education. *Skeen*, 505 N.W.2d at 315; *cf. Sheff v. O'Neill*, 678 A.2d 1267, 1292 (Conn. 1996) (stating that "it logically follows that the education guaranteed in the state constitution must be, at the very least, within the context of its contemporary meaning, an adequate education" and that the government "may not herd children in an open field to hear lectures by illiterates" to fulfill its duty to provide an education (citation omitted) (internal quotation marks omitted)).

We will not shy away from our proper role to provide remedies for violations of fundamental rights merely because education is a complex area. The judiciary is well equipped to assess whether constitutional requirements have been met and whether

appellants' fundamental right to an adequate education has been violated. *See, e.g.*, *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 212–13 (Ky. 1989); *Pauley*, 255 S.E.2d at 877–78. Although the Legislature plays a crucial role in education, it is ultimately the judiciary's responsibility to determine what our constitution requires and whether the Legislature has fulfilled its constitutional duty.

For these reasons, we conclude that appellants' claims alleging violations of the Equal Protection and Due Process Clauses of the Minnesota Constitution are justiciable.

III.

We next address an issue raised by the State in its cross-appeal: whether the Speech or Debate Clause of the Minnesota Constitution, Minn. Const. art. IV, § 10, immunizes the Minnesota House of Representatives and Minnesota Senate from appellants' claims. This is an issue of constitutional interpretation that we review de novo. *See City of Golden Valley v. Wiebesick*, 899 N.W.2d 152, 156 (Minn. 2017).

Our analysis begins with the text of the Minnesota Constitution. *See League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 646 (Minn. 2012). The Speech or Debate Clause provides:

> The members of each house in all cases except treason, felony and breach of the peace, shall be privileged from arrest during the session of their respective houses and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

Minn. Const. art. IV, § 10. We have described this clause as "grant[ing] absolute privilege from defamation liability to members of the State Senate and House of Representatives in the discharge of their official duties." *Zutz v. Nelson*, 788 N.W.2d 58, 62 (Minn. 2010).

In this case, the House and Senate argue that they must be dismissed from this action because the Speech or Debate Clause applies broadly and provides immunity from suit for any actions taken in their legislative capacity. We disagree. We interpret constitutional provisions "in light of each other in order to avoid conflicting interpretations." *Clark v. Pawlenty*, 755 N.W.2d 293, 305 (Minn. 2008). As appellants suggest, the House and Senate are essentially arguing that the Minnesota Constitution provides them with absolute immunity for violating a duty that the constitution specifically imposes on the Legislature. We decline to interpret one provision in the constitution—the Speech or Debate Clause—to immunize the Legislature from meeting its obligation under more specific constitutional provisions—the Education, Equal Protection, and Due Process Clauses. Moreover, none of the cases that the House and Senate cite in support of their claims of legislative immunity involves a legislature's failure to comply with an express constitutional mandate. We therefore hold that the protections of the Speech or Debate Clause do not extend to claims that the Legislature has violated its duty under the Education Clause or has violated the Equal Protection or Due Process Clauses.

IV.

Finally, we address the State's argument that the district court lacks jurisdiction over appellants' claims because appellants failed to join all necessary parties. The State contends that the claims and requested remedies in this case "directly implicate[] actions only school districts and charter schools can take, but they have not been included as parties." The State bases its argument on both the Uniform Declaratory Judgments Act, Minn. Stat. §§ 555.01–.16 (2016), and Rule 19 of the Minnesota Rules of Civil Procedure.

The State's argument presents issues relating to the interpretation of a statute and a procedural rule, both of which we review de novo. *Cocchiarella v. Driggs*, 884 N.W.2d 621, 624 (Minn. 2016) (statutory interpretation); *Contractors Edge, Inc. v. City of Mankato*, 863 N.W.2d 765, 768 (Minn. 2015) (interpretation of procedural rules).

A.

We begin by addressing the Uniform Declaratory Judgments Act. "A declaratory judgment is a 'procedural device' through which a party's existing legal rights may be vindicated so long as a justiciable controversy exists." *Weavewood, Inc. v. S & P Home Invs., LLC*, 821 N.W.2d 576, 579 (Minn. 2012); *see* Minn. Stat. § 555.01 (stating that courts have the "power to declare rights, status, and other legal relations" through the issuance of a declaratory judgment). Under Minn. Stat. § 555.11, "[w]hen declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding."

The State argues that school districts and charter schools are necessary parties to this action under section 555.11 because the relief that appellants seek would affect matters that school districts and charter schools control under the current statutory scheme. For example, the State contends that the "requested 'adequate and desegregated' remedy no doubt would affect school district boundaries and attendance zones," as well as school district policies regarding community schools. The State also argues that the potential remedies could affect other matters such as "funding allocation, class assignments, teacher assignments, and discipline." The State claims that all of these matters, by statute, fall

within the discretion of the individual school districts or charter schools, not the State. *See* Minn. Stat. §§ 122A.40; 122A.41, subd. 1(b); 123A.45–.50; 123B.02, subd. 1 (2016).

Appellants respond that the State has misrepresented the relief they are seeking. According to appellants, the Declaratory Judgments Act has no bearing on the district court's jurisdiction because they have not asserted a claim under the Act. Instead, appellants state that their complaint alleges that the Legislature has failed to comply with its affirmative duty under the Education Clause and that they are asking the district court to issue an injunction ordering the Legislature to comply with that affirmative duty. According to appellants, the district court has "inherent authority to remedy the infringement of a constitutional right," and they do not need to invoke the Declaratory Judgments Act to obtain the relief they are seeking.

Regardless of whether appellants have specifically sought relief under the Declaratory Judgments Act, the district court concluded that the school districts and charter schools are not necessary parties because appellants are seeking "remedies from the State, not individual school districts or charter schools." We agree that the relief appellants are seeking from the State does not require the joinder of school districts and charter schools.[8] The State's argument regarding potential impacts on school districts and charter schools prematurely speculates about hypothetical remedies. Even if the school districts and charter schools might eventually be affected by actions potentially taken by the State in response to this litigation, those possible effects are not enough to require that the school

[8] Our decision here has no impact on the right of school districts and charter schools to move to intervene. *See* Minn. R. Civ. P. 24.01–.03.

districts and charter schools be joined as necessary parties. As the district court noted, "many non-parties are bound to be affected by a judicial ruling in an action regarding the constitutionality of state statutes or state action, but they cannot all be required to be a part of the suit." We therefore conclude that the district court did not err when it denied the State's motion to dismiss the complaint for lack of jurisdiction under the Declaratory Judgments Act.

B.

We next address Rule 19 of the Minnesota Rules of Civil Procedure. Rule 19.01 provides that a person "shall be joined as a party in the action if . . . in the person's absence complete relief cannot be accorded among those already parties." Rule 19.02 provides that if a necessary person "cannot be made a party, the court shall determine whether in equity and good conscience the action should proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable." According to the State, school districts and charter schools "are indispensable; if they cannot be joined, the Complaint must be dismissed." As discussed above, school districts and charter schools are not indispensable parties when relief is sought solely from the State. The district court therefore did not err when the court denied the State's motion to dismiss the complaint under Rule 19.

CONCLUSION

For the foregoing reasons, we reverse the decision of the court of appeals.

Reversed.

THISSEN, J., not having been a member of this court at the time of submission, took no part in the consideration or decision of this case.

D I S S E N T

ANDERSON, Justice (dissenting).

Appellants contend that their children attending Minneapolis and Saint Paul public schools are denied the right to an "adequate education" as guaranteed by the Minnesota Constitution because the schools are "segregated on the basis of both race and socioeconomic status." They seek an order from the district court requiring the delivery of an "adequate" education to the students. Because I conclude that any "adequacy" of education protected by the fundamental right to an education, as guaranteed by the Education Clause, is textually committed to the Minnesota Legislature, I conclude that appellants' claims are not justiciable under the political-question doctrine. I therefore dissent from the court's opinion and would affirm the court of appeals.

I.

The court of appeals determined that appellants' claims presented nonjusticiable political questions. *Cruz-Guzman v. State*, 892 N.W.2d 533, 541 (Minn. App. 2017). Questions of justiciability are issues of law that we review de novo. *See In re Custody of D.T.R.*, 796 N.W.2d 509, 512 (Minn. 2011). My analysis begins with the text of the constitution, then turns to the doctrines of judicial restraint to which we adhere. *See, e.g.*, *In re McConaughy*, 119 N.W. 408, 417 (Minn. 1909) (explaining that a political question typically "has been specifically delegated to" another branch of government and "[t]he courts have no judicial control over" such questions when "delegated to the Legislature").

When we interpret the text of the Minnesota Constitution, we determine first whether the language in question is ambiguous. *See State v. Brooks*, 604 N.W.2d 345, 348

(Minn. 2000) (interpreting Article I, Section 7). When constitutional language is unambiguous, we apply that language as written. *See Kahn v. Griffin*, 701 N.W.2d 815, 825 (Minn. 2005). Article XIII, Section 1 of the Minnesota Constitution states:

> The stability of a republican form of government depending mainly upon the intelligence of the people, it is the duty of the legislature to establish a general and uniform system of public schools. The legislature shall make such provisions by taxation or otherwise as will secure a thorough and efficient system of public schools throughout the state.

The text of the Education Clause commands *the Legislature* to establish a public school system that is "general and uniform." *Id.* The second sentence instructs *the Legislature* to make fiscal investments in that "general and uniform system of public schools" sufficient to ensure that it is "thorough and efficient." *Id.* Plainly and unambiguously, the people of Minnesota put upon the Legislature "the duty" to provide a system of education. *Id.*; *Skeen v. State*, 505 N.W.2d 299, 308 (Minn. 1993) ("This Clause places a duty on the legislature . . . ."). As we have said previously, the Education Clause is a "constitutional mandate" on the Legislature that provides all Minnesotans with a fundamental right to an education. *Skeen*, 505 N.W.2d at 313.

The first paragraph of the complaint makes clear that appellants' claims are founded on assertions that the Minnesota Constitution requires the Legislature to deliver an "adequate" education to students, that the Legislature has failed to do so, and that these claims are cognizable by Minnesota courts.[1] Merely casting claims as constitutional

[1] I agree with the conclusion of the court of appeals that appellants' claims here are derivative of a purported right to an "adequate" education and are not traditional segregation claims based on racial discrimination. *Cruz-Guzman*, 892 N.W.2d at 536 n.1.

violations, however, does not require, or permit, the judiciary to act. *See Ninetieth Minn. State Senate v. Dayton*, 903 N.W.2d 609, 623–24 (Minn. 2017).

The first barrier, of course, is that nowhere in the plain language of the state constitution do the words "adequate education" appear, let alone in the context of requiring the Legislature to provide an "adequate education" to residents of Minnesota. Setting *Skeen* aside for the moment, no decision of our court has imposed this requirement on the Legislature.[2] Further, state constitutional education clause litigation elsewhere has focused on education-financing issues, not on the kind of "adequacy" claims advanced in this

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Even under a liberal reading of the complaint, it is not sustainable to conclude otherwise. The complaint here, from the very beginning of the document, focuses on the alleged deprivation of the fundamental right to an education guaranteed by the Minnesota Constitution. These claims are clearly rooted in a fundamental-rights analysis rather than a traditional school-segregation approach. *See Brown v. Bd. of Educ.*, 347 U.S. 483, 494−95 (1954). I also agree with the court of appeals that, when those claims are properly pleaded, there is no question that traditional segregation claims based on racial discrimination are justiciable.

[2] I recognize that the *Skeen* court referred more than once to an "adequate education" when discussing the Education Clause. 505 N.W.2d at 315 (concluding that the "fundamental right" under the Education Clause is "to a general and uniform system of education which provides an *adequate education* to all students in Minnesota" (internal quotation marks omitted) (emphasis added)). The *Skeen* plaintiffs did not challenge "the *adequacy* of education in Minnesota," *id*. at 302; the court was not asked to determine whether the language of the Education Clause conferred a right to an adequate education (as opposed to a general, uniform, thorough, or efficient education system); and ultimately, the court held that the plaintiffs' claims failed to establish "a constitutional violation of the state constitutional provisions which require the state to establish a 'general and uniform system of public schools' which will secure a 'thorough and efficient system of public schools,' " *id*. at 312. Thus, I can only conclude that the references to an "adequate education" in *Skeen* are dicta. *See Jaeger v. Palladium Holdings, LLC*, 884 N.W.2d 601, 610–11 (Minn. 2016) (explaining that statements are dicta when they go beyond the facts before the court and are "unnecessary to the decision" in the case).

litigation. *See, e.g.*, *Gannon v. State*, 402 P.3d 513, 524–26 (Kan. 2017) (reviewing an "adequacy" challenge to the school "financing system"); *Rose v. Council for Better Educ., Inc.*, 790 S.W.2d 186, 190 (Ky. 1989) (same); *Pauley v. Kelly*, 255 S.E.2d 859, 863 (W. Va. 1979) (same). Appellants have cited no precedent for the relief sought here that looks remotely like the present controversy, and I have found none. The plain language of the Minnesota Constitution does not permit the "adequacy" claims asserted by appellants.

But assuming, as both appellants and the court assume, that a legislative duty to provide for an adequate education exists, how is that duty defined and enforced?

Taking the allegations of the complaint as true, as we must at this stage of the litigation, there is no question that the educational performance of the Minneapolis and Saint Paul schools identified in the complaint is appalling. So, why not have the courts act as a check on the legislative and executive branches of government, which have failed to provide an "adequate" education?[3] As attractive as that option might seem, ultimately, we lack authority to address what is fundamentally a political question; put another way, the claims of appellants are not justiciable.

Logic demands that, for the judiciary to find inadequacy, it must first define what is adequate. This raises the question of whether such an exercise of judicial power is proper.

We characterize the contours of the limits to the judicial power in different ways. We ask whether we have jurisdiction over parties or matters. *See, e.g.*, *County of*

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[3] Whether the Education Clause secures a right to an "adequate" education does not affect my analysis. Even assuming that there is a fundamental right to an adequate education, I conclude that determinations of adequacy must be left to the political branches to be implemented by statute and regulations consistent with statutory authority.

Washington v. City of Oak Park Heights, 818 N.W.2d 533, 538 (Minn. 2012) (subject matter jurisdiction); *Juelich v. Yamazaki Mazak Optonics Corp.*, 682 N.W.2d 565, 569 (Minn. 2004) (personal jurisdiction). We also ask whether the issues in the case are ready to be decided, *Schober v. Comm'r of Revenue*, 853 N.W.2d 102, 108 (Minn. 2013) (ripeness), and whether a party has or will sustain an injury, *State v. Philip Morris Inc.*, 551 N.W.2d 490, 493 (Minn. 1996) (standing). Further, we often ask whether the particular question posed to us is suitable for judicial determination because it presents a sufficiently concrete dispute between adverse parties, *Schowalter v. State*, 822 N.W.2d 292, 298–99 (Minn. 2012) (advisory opinion), or whether the question presented would improperly entangle the judiciary in the constitutional authority committed to our coordinate branches of government, *McConaughy*, 119 N.W. at 417 (political questions). Among these and several more considerations, what we are really asking is whether the exercise of the judicial power in a given case is proper.

Although conceptually distinct, all of these justiciability considerations arise from the enduring obligation of the judiciary to maintain its rightful role and function in our constitutional form of government. *See League of Women Voters Minn. v. Ritchie*, 819 N.W.2d 636, 651 (Minn. 2012) ("The proper role for the judiciary . . . is not to second-guess the wisdom of policy decisions that the constitution commits to one of the political branches."); *State v. Merrill*, 450 N.W.2d 318, 321 (Minn. 1990) ("[T]he role of the judiciary is . . . to decid[e] whether a statute is constitutional, not whether it is wise or prudent legislation."); *see also Warth v. Seldin*, 422 U.S. 490, 498 (1975) (explaining that the constitutional and prudential limitations on the jurisdiction of federal courts are

"founded [on] concern[s] about the proper—and properly limited—role of the courts in a democratic society"). Indeed, the point of judicial caution and prudence is to preserve the separation of powers among the branches of our government that is enshrined in the Minnesota Constitution. *See, e.g.*, *Limmer v. Swanson*, 806 N.W.2d 838, 839 (Minn. 2011) (declining to resolve "fundamental constitutional questions" involving other branches of government).

Article III, Section 1 of the Minnesota Constitution provides:

> The powers of government shall be divided into three distinct departments: legislative, executive and judicial. No person or persons belonging to or constituting one of these departments shall exercise any of the powers properly belonging to either of the others except in the instances expressly provided in this constitution.

"[E]ach branch of government is given its own powers, [and] the powers given have a constitutionally limited scope . . . ." *Ninetieth Minn. State Senate*, 903 N.W.2d at 627 (Anderson, J., dissenting). We have said that the Judicial Branch lacks "the power to control, coerce, or restrain the action of the other two [branches] within the sphere allotted them by the Constitution wherein to exercise judgment and discretion." *State ex rel. Burnquist v. Dist. Court*, 168 N.W. 634, 636 (Minn. 1918).

When the constitution *textually* commits a matter to another branch of government and that branch acts within the scope of its powers, we cannot review the political judgments and discretionary actions of that branch or its officials. "[O]ne of the highest duties resting upon the judicial department . . . is to refrain from trespassing upon the domain assigned to either of the other departments." *Gollnik v. Mengel*, 128 N.W. 292, 292 (Minn. 1910); *see McConaughy*, 119 N.W. at 417 (explaining that a political question

"is a matter . . . [that] has been specifically delegated to some other department or particular officer of the government" and that the judiciary "ha[s] no judicial control over such matters").

From Montesquieu[4] to Madison,[5] there is no principle professed as more responsible for the preservation of liberty than the separation of powers of government. The judiciary is the foremost bulwark against encroachments between the branches. As was stated in *Gollnik*:

> The fact that under the Constitution the responsibility of maintaining the separation in the powers of government rests ultimately with the judiciary should make a court, from whose decision there is no appeal, hesitate before assuming a power as to which there is any doubt, and resolve all reasonable

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[4] "When the legislative and executive powers are united . . . in the same body of magistracy, there can be then no liberty. . . . [T]here is no liberty, if the power of judging be not separated from the legislative and executive powers." *Montesquieu*, *The Spirit of Laws: A Compendium of the First English Edition* 202 (David Wallace Carrithers ed., 1977).

[5] James Madison described the separation of powers enshrined in the United States Constitution in Federalist Paper 47:

> The magistrate in whom the whole executive power resides cannot of himself make a law, though he can put a negative on every law; nor administer justice in person, though he has the appointment of those who do administer it. The judges can exercise no executive prerogative, though they are shoots from the executive stock; nor any legislative function, though they may be advised with by the legislative councils. The entire legislature can perform no judiciary act, though by the joint act of two of its branches the judges may be removed from their offices, and though one of its branches is possessed of the judicial power in the last resort. The entire legislature, again, can exercise no executive prerogative, though one of its branches constitutes the supreme executive magistracy, and another, on the impeachment of a third, can try and condemn all the subordinate officers in the executive department.

The Federalist No. 47, at 303 (James Madison) (Clinton Rossiter ed., 1961).

> doubts in favor of a co-ordinate branch of the government, unless such conclusion leads to a palpable wrong or absurdity.

128 N.W. at 292.

II.

With these principles in mind, I turn to the question of whether the claims of appellants are nonjusticiable political questions. Although it is true, as the court notes, that we have long heard and determined cases arising from the Education Clause, I conclude that the claims presented in this case are nonjusticiable political questions.

> What is generally meant, when it is said that a question is political, and not judicial, is that it is a matter which is to be exercised by the people in their primary political capacity, or that it has been specifically delegated to some other department or particular officer of the government, with discretionary power to act.

McConaughy, 119 N.W. at 417.

From our earliest decision in *Curryer v. Merrill*, 25 Minn. 1 (1878), to our more recent decision in *Skeen*, 505 N.W.2d at 313, we have entertained challenges under the Education Clause. But in my view those cases are not instructive for two reasons. First, there is no discussion of justiciability in our decisions. Second, the claims here are fundamentally different from all of the claims we have previously reviewed precisely because they would force the judiciary into a role that we cannot accept.

Appellants, and the court, rely heavily on language in *Skeen* that uses the word "adequate." But in *Skeen*, as with education clause cases around the country, we examined whether the statutory scheme financing our education system was constitutional. *See* 505 N.W.2d at 307–08. The adequacy language in *Skeen* must be taken as limited to either

school-financing issues—something very different from what is at issue here—or dicta.[6] *Skeen* simply does not stand for the broad "adequacy" concepts that appellants assert in their complaint, and our precedent confirms that we have declined to interfere with the policy decisions inherent in how the Legislature fulfills its "duty" under the Education Clause.

In *Curryer*, we reviewed the constitutionality of a statute, holding that it did not violate the Education Clause. 25 Minn. at 4–5. We said that the question of how or what educational measures should be adopted "is one of legislative and not judicial cognizance." *Id.* at 5. In *State ex rel. Klimek v. School District No. 70*, we held that the Education Clause did not mandate free transportation for all school children. 283 N.W. 397, 398–99 (Minn. 1939). We noted that the language of the constitution did not require that "school districts . . . provide free transportation to school children" and that, in the absence of such a constitutional mandate, "[w]e must look to the statutes to determine the extent, nature and character of the powers of [school districts]." *Id.*; *see also Bd. of Educ. of Minneapolis v. Erickson*, 295 N.W. 302, 304 (Minn. 1940) (noting that the "method by which [the] objectives" of the Education Clause are accomplished is "left to legislative determination"). In all of those cases, we were asked to examine the constitutionality or

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[6] *Skeen* involved a constitutional challenge to a statutory framework, which is familiar territory for courts. In fact, courts nationwide have heard challenges to education-financing schemes. *See, e.g.*, *Gannon v. State*, 390 P.3d 461, 468, 475 (Kan. 2017) (holding that the question of whether the education-financing scheme adopted by the Legislature, which had a constitutional duty to provide education, was justiciable). *But see, e.g.*, *Okla. Educ. Ass'n v. State ex rel. Okla. Legislature*, 158 P.3d 1058, 1065–66 (Okla. 2007) (holding the same issue to be a nonjusticiable political question).

validity of enacted legislation. Appellants, on the other hand, refer to statutes only insofar as they allege that those statutes contribute to an "inadequate" education; they do not challenge the constitutionality of those statutes.[7]

Klimek demonstrates the problem with adjudicating appellants' claims. The statute at issue in *Klimek* empowered school districts to provide transportation to their students. *See* 283 N.W. at 398. We construed the language of the statute to be permissive and held that the Education Clause did not elevate the grant of power in the statute to a duty. *Id.* at 398–99.

Now, suppose, instead of a constitutional provision, there was a *statute* that guaranteed an "adequate" education to all students, spelling out several factors used in determining whether a given education is adequate. Suppose also that the statute provided a cause of action for students who were deprived of their statutorily guaranteed right, with prescribed remedies that regularly attend such statutes. Appellants would be here asking us to determine questions of law within the scope of a duly enacted statute. We could turn to the statute to "determine the extent, nature and character of the powers," *id.* at 399, of any given defendant and perform our well-established role "to say what the law is," *Marbury v. Madison*, 5 U.S. (1 Cranch) 137, 177 (1803). The challenge before us, however, is not whether a statute is constitutional or whether the acts or omissions of

[7] For example, appellants claim that open-enrollment policies, *see* Minn. Stat. § 124D.03 (2016), and the exemption of charter schools from particular desegregation efforts, *see* Minn. Stat. §§ 124D.861; 124E.03, subds. 1–2 (2016), are causally related to the alleged inadequacy asserted in their claims. Appellants do not challenge, however, the constitutionality of those statutes or policies, either facially or as applied to their circumstances.

government actors complied with the language of a statute. We are not asked to apply the law as written; appellants urge us to write the law, a job assigned to the Legislature. *See, e.g.*, *State v. Ali*, 855 N.W.2d 235, 268 (Minn. 2014) (Stras, J., concurring in part, dissenting in part) (stating that "the judiciary does not write statutes" and that "[a]mending statutes is, and always has been, the Legislature's job").

Any particular content of the right to an education is a matter of politics and policy that is committed to the Legislature. As we stated in *Curryer*:

> [T]he whole matter of the establishment of public schools, the course of instruction to be pursued therein, how they shall be supported, upon what terms and conditions people shall be permitted to participate in the benefits they afford—in fine, all matters pertaining to their government and administration—come clearly within the range of proper legislative authority.

25 Minn. at 5. As the plain and unambiguous language of the Education Clause instructs, to fulfill its constitutional obligations, the Legislature need only "establish a general and uniform system of public schools." Minn. Const. art. XIII, § 1; *see Skeen*, 505 N.W.2d at 315 ("[T]he state has satisfied its constitutionally-imposed duty of creating a 'general and uniform system of education.' "). Even if inherent judicial power empowers us to make policy judgments, a proposition we need not reach here, our authority would still be limited to the traditional domain of the judiciary, for example, good-faith extensions of our state's common law in light of societal changes or advancements in the law. This is because we are a branch of government wholly unsuited to setting constitutional minimums in educational adequacy, whether it be the provision of textbooks, the availability of particular courses, or even the organization of school districts. *Ninetieth Minn. State Senate*,

903 N.W.2d at 623 (noting that "[t]he impasse that led the parties to the courtroom stems from disputes that are ill-suited for judicial resolution" because the parties ask the judiciary to resolve disputes over "a quintessentially political process"). These decisions are outside the scope of sound judicial decision-making.

The political nature of the inquiry that appellants would have us undertake is illustrated by decades of legislative enactments designed to improve state educational policy. And if further evidence is required, the current budget adopted by the Legislature and approved by the Governor provides for elementary and secondary education in a manner that makes the education component of state spending the largest single expenditure from the general fund.[8]

The Legislative and Executive Branches have consistently sought to create and implement educational policies and a successful statutory educational framework, clearly seeking to improve the public school system in our state.[9] From the creation of the district system of public schools in the early years after statehood, *see* Act of Mar. 6, 1862, ch. 1, § 1, 1862 Minn. Gen. Laws 17, 18 (codified at Minn. Gen. Stat. ch. 36, § 1 (1863)), to the

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[8] For the 2018–19 biennium, nearly $19 billion was spent on E-12 education, which represents more than 40 percent of all expenditures from the general fund. *See Minn. Mgmt. & Budget, General Fund Pie Charts* 2 (2018).

[9] I endorse neither the merits of the reforms adopted by the Legislature nor appellants' criticisms of some of these reforms; I simply note this discussion illustrates the inherent character of educational reform as a political question.

adoption of open enrollment[10] and the authorization of charter schools[11] in our more recent past, education has rightly been within the purview of the other branches. Indeed, the Legislature has often established the achievement of an adequate education as a goal. For example, in the 1970s, the Council on Quality Education was established "to encourage, promote and aid such research and development in elementary and secondary schools, to evaluate the results of such programs and disseminate information about [the] same throughout the state." Act of Oct. 30, 1971, ch. 31, art. 15, § 1, 1971 Minn. Laws Extra Sess. 2561, 2600 (codified at Minn. Stat. §§ 3.924–.925 (1971)).[12]

These policy- and politically-based initiatives illustrate a separate, immutable fact: the adequacy of education—and thus the sufficiency of the Legislature's compliance with its constitutional duty—must be constantly reevaluated as proposals, budgets, enrollment, learning objectives, initiatives, and education resources change and evolve. It is not the province of the judiciary to monitor or judge the wisdom of the policy and

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[10] *See* Act of May 6, 1988, ch. 718, art. 7, § 8, 1988 Minn. Laws 1668, 1721 (codified at Minn. Stat. § 124D.03, subd. 1(a)).

[11] *See* Act of June 4, 1991, ch. 265, art. 9, § 3, 1991 Minn. Laws 943, 1123–25 (codified as amended at Minn. Stat. §§ 124E.01, .05–.06 (2016)).

[12] Of course, there are countless examples of legislative and executive efforts to improve public education, including the Minnesota Educational Effectiveness Program, *see* Minn. Stat. § 121.609 (1983); Individualized Learning and Development Aid, *see* Minn. Stat. §§ 124.331–.333 (1989); Outcome Based Education, *see* Minn. Stat. § 121.111 (1989); Some Essential Learner Outcomes, *see*, *e.g.*, *Minn. Dep't of Educ.*, *Some Essential Learner Outcomes for Physical Education* 1–3 (George Hanson & Carl Knutson eds., 1978); Early Childhood Family Education, *see* Marsha R. Mueller, *The Evaluation of Minnesota's Early Childhood Family Education Program*, 19 Am. J. Evaluation 80, 80−81 (1998); and Graduation Standards and Profile of Learning, *see* Minn. Stat. § 120B.02 (1998).

political decisions made to address the many factors that might lead to change in any given education year.

Appellants recognize the problem posed by their request to involve the judiciary in a duty textually committed to the Legislature because they insist that they seek only a declaration that the current model is unconstitutional. The outcome of this declaration, they suggest, should be left to the Legislature. Wisely, the court here makes no attempt to design a system of "adequate" education, leaving that Herculean task to the parties and the district court. But deferring, in the first instance, to a legislative response is no answer; in the end, a district court will be asked to pass judgment on plans, perhaps many plans, extending over many years, to assure that an "adequate" education is provided to students. And, assuming that a final judgment is eventually entered and an appeal taken, appellate courts will then weigh in on the definition of an "adequate" education and whether that standard is constitutional. The Judicial Branch will not be a bystander to this construction project; it will have final approval over what is built and how.

The point of the political-question doctrine is to keep the three branches of government in their respective lanes. The task the court has now assigned to the Judicial Branch is inherently subjective, undefined, historically and textually the province of the Legislature, deeply political, and one for which the judiciary has no demonstrable expertise.

I am reminded of the principle of Chesterton's fence: before taking down a fence, it is wise to ponder why the fence was constructed in the first place. *See G.K. Chesterton*, *The Thing* 35 (1957). Here, we take down a fence constructed to avoid judicial

entanglement with political questions. I fear we do not fully appreciate the consequences that will follow, not only for the other branches of government but for the judiciary as well.

III.

Undeniably, the complaint paints a disturbing picture of some segregated and underperforming schools in and around the Twin Cities. Although it is true that the Judicial Branch must "say what the law is," *Marbury*, 5 U.S. (1 Cranch) at 177, it is also true that "[q]uestions, in their nature political, . . . can never be made in this court," *id.* at 170. I do not question that Minnesota's children are the intended beneficiaries of the command we find in the Education Clause, and that the failings that appellants identify are more than troubling. But the plain language of that clause commits these issues to the Legislature and renders them unsuitable for judicial decision. *See McConaughy*, 119 N.W. at 417 ("Many questions arise which are clearly political, and not of judicial cognizance.").

For the foregoing reasons, I respectfully dissent.

GILDEA, Chief Justice (dissenting).

I join in the dissent of Justice Anderson.