

STATE OF MINNESOTA  
IN COURT OF APPEALS

A17-0033

**FILED**

January 23, 2017

**OFFICE OF  
APPELLATE COURTS**

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

Appellants/Plaintiffs,

v.

State of Minnesota; Mark Dayton, in his official capacity as the Governor of the State of Minnesota; the Minnesota Department of Education; and 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/Defendants.

**STATEMENT OF THE CASE  
OF RESPONDENTS**

District Court File No. 62-CV-16-2161

Date of Decision: November 9, 2016

Respondents State of Minnesota, Mark Dayton, Minnesota Department of Education, and Brenda Cassellius (“State Defendants”) submit this statement of the case to clarify or supplement Appellants’ statement, in accordance with Minn. R. Civ. App. P. 133.03.

**4. Brief description of claims, defenses, issues litigated and result below. For criminal cases, specify whether conviction was for a misdemeanor, gross misdemeanor, or felony offense.**

Appellants, the parents and guardians of five Minnesota school children, challenge the constitutionality of Minnesota’s long-standing teacher tenure and continuing contract laws. *See* Minn. Stat. §§ 122A.40-.41. Appellants’ Amended Complaint alleges that the laws are unconstitutional under the Education Clause, Equal Protection Clause, and Due Process Clause of the Minnesota Constitution. In short, Appellants claim that school districts may retain some ineffective teachers under the teacher tenure and continuing contract laws, that as a result Appellants’ children are at risk of being taught by an

ineffective teacher, and that this is unconstitutional. Appellants do not define the term “ineffective teacher.”

The district court dismissed Appellants’ claims in their entirety and with prejudice. The court found that the asserted claims raise questions of education policy that are legislative in nature and therefore not justiciable. The court also found that Appellants lack standing. First, the court found that the harms Appellants allege are not cognizable. The court also found the harms are not fairly traceable to the State Defendants, who do not decide which teachers to hire and retain, or to the challenged laws, which actually provide for discipline and termination of teachers who are inefficient. Furthermore, because Appellants acknowledged that their children could still be taught by a teacher they deem “ineffective” even if the challenged laws were enjoined, the court held that it lacked the ability to redress Appellants’ alleged harms.

The district court also found that Appellants fail to state any viable claim under the Minnesota Constitution. The court dismissed the Education Clause claims because Plaintiffs’ allegations do not allege a violation of the constitutionally-guaranteed “general and uniform” system of education. The district court also rejected Appellants claims that their education is constitutionally inadequate, holding that inadequacy has never been discussed outside the funding context and, in any event, Appellants have not alleged facts showing their children’s education was inadequate. The court dismissed Appellants’ Equal Protection claim—which it construed as a facial challenge because of the relief sought—on the basis that the challenged statutes do not discriminate on their face. Alternatively, the court held that even if Appellants had pled a proper as-applied claim under either the Equal Protection or Due Process clause, such claims would also fail as a matter of law.

Appellants seek review only as to their claims brought against the State Defendants, and appear to have declined to pursue appeal of their claims against other defendants or under the Due Process Clause of the Minnesota Constitution.

**5. List specific issues proposed to be raised on appeal.**

Where policy decisions over Minnesota’s “general and uniform system of education” have been delegated to the Legislature under Minn. Const. art. XIII, § 1, are Appellants’ claims challenging the type of teacher hiring system enacted by the Legislature justiciable?

Do Appellants lack standing because their alleged harm is not cognizable, is not fairly traceable to the State Defendants or Minn. Stat. §§ 122A.40 and 122A.41, and is not redressable?

Given that Appellants admitted to seeking relief that can only be obtained on a facial claim, have Appellants pled facts to support that Minnesota’s teacher tenure and continuing contract laws, Minn. Stat. §§ 122A.40, 122A.41, are unconstitutional in all applications?

Have Appellants failed to state a viable claim that Minnesota's teacher tenure and continuing contract laws, Minn. Stat. §§ 122A.40, 122A.41, violate the Education Clause of the Minnesota Constitution?

Where Minnesota's teacher tenure and continuing contract laws, Minn. Stat. §§ 122A.40, 122A.41 do not distinguish between classes of students, do Appellants' allegations that the laws violate the Equal Protection Clause of the Minnesota Constitution fail to state a claim?

**6. Related appeals.**

*Cruz-Guzman, et al., v. State of Minnesota, et al.*, A16-1265 (Minn. Ct. App.).

**7. Contents of record.**

Is a transcript necessary to review the issues on appeal? Yes (x) No ( )

If yes, full (x) or partial ( ) transcript?

Has the transcript already been delivered to the parties and filed with the district court administrator? Yes ( ) No (x)

If not, has it been ordered from the court reporter? Yes (x) No ( )

Dated: January 23, 2017

Respectfully submitted,

OFFICE OF THE ATTORNEY GENERAL  
State of Minnesota

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