THE STATE OF NEW HAMPSHIRE
SUPREME COURT

No. 2026-0150

Steven Rand & a.

v.

State of New Hampshire

BRIEF OF *AMICI CURIAE* AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE AND NATIONAL EDUCATION ASSOCIATION-NEW HAMPSHIRE IN SUPPORT OF PLAINTIFFS

Appeal Pursuant to Supreme Court Rule 7 from Rockingham County Superior Court
Docket No. 215-2022-cv-00167

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IDENTITY OF AMICI CURIAE

The American Civil Liberties Union of New Hampshire ("ACLU-NH") is the New Hampshire affiliate of the American Civil Liberties Union Foundation ("ACLU")—a nationwide, nonpartisan, public-interest organization with over 1.7 million members (including more than 9,000 New Hampshire members and supporters). For decades, the ACLU and ACLU-NH have litigated in state and federal courts by direct representation and as amici curiae to encourage the protection of individual rights guaranteed under state and federal law, including the right to an adequate education funded by uniform taxation enshrined in the mandates of Part II, Article 83, and Part II, Article 5, of the New Hampshire Constitution. ACLU-NH supported the *Claremont* litigation, including through *amicus* briefing, and filed an *amicus* brief in *Contoocook Valley Sch. Dist. v. State*, 174 N.H. 154 (2021) ("*ConVal I*"), in support of the plaintiffs.

National Education Association-New Hampshire ("NEA-NH") is located in Concord, New Hampshire, and was founded in 1854—then as the New Hampshire State Teachers Association. It became one of the "founding ten" state education associations that formed the National Education Association in 1857. The NEA-NH is comprised of approximately 16,000 member educators and education support professionals in New Hampshire representing the majority of all public-school employees in the state. Its mission is to create a more just society by advancing public education in New Hampshire for all communities and students. In this role, the NEA-NH has been a supporter of, and advocate for, the state constitutional right to an adequate education, including through legislative testimony and the filing of *amicus* briefs in the

following cases: *Claremont Sch. Dist. v. Governor*, 138 N.H. 183 (1993) ("*Claremont I*"), *Claremont Sch. Dist. v. Governor*, 147 N.H. 499 (2002) ("*Claremont Accountability*"); *Londonderry Sch. Dist. SAU No. 12 v. State*, 154 N.H. 153 (2006) ("*Londonderry I*"); and *Londonderry Sch. Dist. SAU No. 12 v. State*, 157 N.H. 734 (2008) ("*Londonderry II*").

The ACLU-NH and NEA-NH filed an *amicus* brief in an earlier appeal in this case, *Rand v. State*, 177 N.H. 383 (2025), arguing against overturning *Claremont I* and its progeny. The ACLU, ACLU-NH, and NEA-NH believe that their experience in these issues will make their brief of service to this Court.

STATEMENT OF THE FACTS AND THE CASE

Amici adopt the Appellees' statement of facts and procedural posture.

SUMMARY OF ARGUMENT

The State makes an astonishing request of this Court: do away, in one fell swoop, with three decades of case law recognizing Granite Staters' fundamental constitutional right to receive, and the government's corresponding obligation to provide, an adequate education. There is no principled way for the Court to do that.

Under the doctrine of *stare decisis*, this Court commits to adhere today to what the Court has already decided, except in the most exceptional cases. When asked to overrule precedent, the Court does not consider the legal question *de novo*, but instead considers reliance interests on the precedent in question, whether the precedent has proved unworkable, and

whether the underlying law or facts have so dramatically changed that retaining the precedent is untenable. None of these factors—which the State addresses in a mere twelve pages of its 125-page brief, supports overruling this Court's decision in *Claremont I* and its progeny.

Amici submit this brief to make four related points.

First, the educational-adequacy right has existed for more than three decades. It is actively used and relied upon by municipalities, schools, and families alike, and the harmful impact of overruling it would fall disproportionately on communities of color in rapidly diversifying cities, along with rural, property-poor areas elsewhere in the state. *Amici* are aware of no other instance—and the State does not cite one—in which this Court has overturned a decision recognizing a fundamental, constitutional right. What the State seeks is extraordinary, if not outright unprecedented.

Second, *Claremont I* and its progeny are plainly workable: While *Amici* do not belabor the New Hampshire experience that Appellees will surely address, they demonstrate below how other states' experiences likewise support the conclusion that the educational-adequacy right is manageable for this Court and the Legislature.

Third, nothing in the facts or law underlying *Claremont I* and its progeny warrants the dramatic precedential departure sought by the State. This Court has applied its case law in this area many times over—and the State, even as recently as just a few years ago, disclaimed any challenge to it. Since that time, nothing has changed other than the Court's composition, and that plainly cannot justify a departure from the basic principle of *stare decisis*. To rule otherwise would send a "dangerous message" to the public, *State v. Peeler*, 140 A.3d 811, 814 (Conn. 2016) (Rogers, C.J., concurring)

(collecting cases), and undermine the principle that this Court "is an institution and not merely a collection of individuals," *People v. Hobson*, 348 N.E.2d 894, 903 (N.Y. 1976).

Fourth, the State attempts to extricate its appeal from the *stare decisis* framework by suggesting that the plaintiffs present non-justiciable political questions, but that argument must proceed—if at all—only after the State demonstrates that *stare decisis* permits a precedential U-Turn. And even if this Court were to consider the State's political-question argument *de novo*, the Court should soundly reject it.

ARGUMENT

The doctrine of *stare decisis* requires the Court to adhere to existing decisions in all but the most exceptional cases. *See Appeal of N.H. Dep't of Transp.*, 174 N.H. 610, 615 (2021). The doctrine "demands respect in a society governed by the rule of law," for "when governing legal standards are open to revision in every case, deciding cases becomes a mere exercise of judicial will with arbitrary and unpredictable results." *Jacobs v. Dir., N.H. Div. of Motor Vehicles,* 149 N.H. 502, 504 (2003) (quoting *Brannigan v. Usitalo,* 134 N.H. 50, 53 (1991)). *Stare decisis* promotes predictability and consistency in the law. *See Rallis v. Demoulas Super Markets, Inc.*, 159 N.H. 95, 102 (2009) (quotation omitted). "*Stare decisis* is the essence of judicial self-restraint," reflecting respect for the efforts of other judges. *State v. Quintero*, 162 N.H. 526, 539 (2011). And it protects the credibility of this Court and its justices by precluding changes in doctrine based solely on the Court's composition. *Cf. Payne v. Tennessee*, 501 U.S. 808, 827

(1991) (*stare decisis* "contributes to the actual and perceived integrity of the judicial process").

"[W]hen asked to reconsider a previous holding, the question is not whether [this Court] would decide the issue differently *de novo*, but whether the ruling has come to be seen so clearly as error that its enforcement was for that very reason doomed." *Rallis*, 159 N.H. at 102 (quotation omitted). The Court looks at "whether: (1) the rule has proven to be intolerable simply by defying practical workability; (2) the rule is subject to a kind of reliance that would lend a special hardship to the consequence of overruling; (3) related principles of law have so far developed as to have left the old rule no more than a remnant of an abandoned doctrine; and (4) the facts have so changed, or come to be seen so differently, as to have robbed the old rule of significant application or justification." *N.H. Democratic Party v. Sec'y of State*, 174 N.H. 312, 326 (2021).

Any principled application of this Court's established standard for *stare decisis* demands continued adherence to *Claremont I* and its progeny in this case. Below *Amici* highlight the important reliance interests at stake here; the workability of the Court's education jurisprudence, as illuminated by other states' approaches; and the continued vitality of *Claremont I* and its progeny.

I. Granite Staters have relied for more than three decades on *Claremont I*'s recognition of a fundamental right; overturning a right of that pedigree would be unprecedented and disproportionately harm communities of color.

As one part of its *stare decisis* analysis, the Court looks at whether the precedent "is subject to a kind of reliance that would lend a special

hardship to the consequence[] of overruling." *Rallis*, 159 N.H. at 102. This Court decided *Claremont I* over three decades ago. The Court should not and historically "do[es] not lightly overrule a case" of such vintage. *Alonzi v. Northeast Generation Servs. Co.*, 156 N.H. 656, 659 (2008). And *Claremont I* has not lain dormant during the intervening decades. Time and again, this Court has reaffirmed and reapplied it, most recently just a year-and-a-half ago. *See Claremont Sch. Dist. v. Governor*, 142 N.H. 462 (1997) ("*Claremont II*"); *Opinion of the Justs. (School Financing),* 142 N.H. 892 (1998); *Claremont School Dist. v. Governor (Extension of Deadlines),* 143 N.H. 154 (1998); *Opinion of the Justs. (Tax Plan Referendum),* 143 N.H. 429 (1999); *Opinion of the Justs. (Reformed Public School Financing System),* 145 N.H. 474 (2000); *Claremont Accountability*, 147 N.H. at 499; *Londonderry I*, 154 N.H. at 153; *Londonderry II*, 157 N.H. at 734; *ConVal I*, 174 N.H. at 154; *Contoocook Valley Sch. Dist. v. State*, 177 N.H. 406 (2025) ("*ConVal II*"). *Stare decisis* is especially compelling where, as here, "the earlier case . . . has been repeatedly and consistently accepted and applied." *Brannigan v. Usitalo*, 134 N.H. 50, 53 (1991) (internal marks and quotation omitted).

The State's request to overrule *Claremont I* is especially remarkable given the nature of the precedent at issue. *Claremont I*'s central holding is not about the proper interpretation of a statute, or a more technical provision of the state Constitution governing how state entities interact with one another. Rather, *Claremont I* recognized a fundamental, enforceable constitutional right held by the people of New Hampshire. *Amici* are unaware of any instance in which this Court has nullified a fundamental constitutional right, and the State provides no examples in its briefing. The

wholesale deletion of a constitutional right, as the State requests, would be unprecedented.

And the State's brief utterly fails to wrestle with the gravity of what it seeks, devoting only a single paragraph of its 125-page brief to addressing the reliance-interest factor. *See* Appellant's Br. 83–84. In doing so, the State seems to take the position that no reliance interests can form around "a governmental context," *id.* at 83, as opposed to a "commercial law context where advance planning of great precision is most obviously a necessity," *id.* (quoting *In the Matter of Blaisdell*, 174 N.H. 187, 190 (2021)). But that argument makes no sense. As an initial matter, the State wholly ignores the settled expectations of families and students. New Hampshire families have for decades considered a community's schools (including their access to state funding) when deciding where to live and raise their children. Moreover, for decades, New Hampshire municipalities and school administrative units ("SAUs") have structured their revenue streams and budgets around the "settled" right to a state-funded adequate education. *See Claremont Accountability*, 147 N.H. at 519. Municipal fiscal planning, and the attendant impact on taxpayers, represents a strong reliance interest in the *stare decisis* analysis. *See, e.g.*, *Urb. Renewal Agency of City of Rexburg v. Hart*, 222 P.3d 467, 471 (Idaho 2009); *O'Connor v. City of New York*, 447 N.E.2d 33, 36 (N.Y. 1983). If the Court were to upend that settled law, these municipalities and the Granite Staters they serve would be in perpetual limbo, with education funding on the chopping block every legislative session. Especially if combined with the potential adoption of Ballot Question 2, which would set a local property

tax-cap and an SAU central office spending cap, elimination of state aid would severely damage municipal and educational budgets.[1]

Notably, although the State opens its brief by praising the quality of New Hampshire's public schools and the amount of overall public money that they receive, Appellant's Br. 11, New Hampshire ranks last in the nation for *state* education funding.[2] While the overall spending per-pupil may be laudable, local taxpayers foot that bill (often with great disparities in local tax-rates due to wildly divergent property values). Overturning the *Claremont* line of cases would only aggravate that problem, further passing the cost of vital services from the State to cash-strapped municipalities and their residents. And those costs would not be borne equally across the state: before *Claremont II*'s holding that education taxes must satisfy Article II, Part 5, the effective tax rate in some municipalities was quadruple that of others. *Claremont II,* 142 N.H. at 470. Property owners and other taxpayers—not to mention parents of school-aged children—have made key life decisions against the backdrop of a state-wide tax system that the Legislature established following *Claremont I*. At best, abandoning New

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[1] *See* New Hampshire Bulletin, *Voter Guide: Ballot Question 2* (last accessed Nov. 3, 2026), *available at* https://newhampshirebulletin.com/voter-guides/ballot-measures/2026-question-2/; HB 1300, 2025–2026 Gen. Ct., Reg. Sess. (N.H. 2026), *available at* https://legiscan.com/NH/text/HB1300/id/3286907.

[2] *See* NEA-NH, Press Release, *New Data Shows NH Still 50th in the Nation for State Public Education Funding, Minimal Gains in Educator Pay Overshadowed by Steep Decline in Teachers Year Over Year* (Apr. 27, 2026), *available at* https://neanh.org/about-nea-nh/media-center/press-releases/new-data-shows-nh-still-50th-nation-state-public-education.

Hampshire's whole structure of financing public education would subject them to perpetual uncertainty about their property taxes and the quality of their children's schools.

The burden of upending *Claremont I* and its progeny would not fall equally across the state. Instead, New Hampshire's property-poor communities and communities of color would bear the brunt of the consequences if this Court were to overrule its established precedent. New Hampshire is rapidly becoming more racially and ethnically diverse. Since 2010, the number of non-white residents of New Hampshire increased by nearly 75%, even as the state grew modestly overall. People of color are 13.1% of the population as of the 2025 Census Bureau estimates, compared to 7.5% as of the 2010 Census.[3]

The State's non-white population is also concentrated in several cities. As of 2025, Manchester is now more than 27% non-white;[4] Nashua is over 30% non-white.[5] These demographic shifts are largely due to an increase of younger Granite Staters. "[C]hildren are at the leading edge of

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[3] *See* Census Bureau, *QuickFacts: New Hampshire*, *available at* https://www.census.gov/quickfacts/NH (last accessed Nov. 3, 2026).

[4] *See* Census Bureau, *QuickFacts: Manchester city, New Hampshire*, *available at* https://www.census.gov/quickfacts/fact/table/manchestercitynewhampshire/PST045225 (last accessed Nov. 3, 2026).

[5] *See* Census Bureau, *QuickFacts: Nashua city, New Hampshire*, *available at* https://www.census.gov/quickfacts/fact/table/nashuacitynewhampshire/PST045225 (last accessed Nov. 3, 2026).

the state's growing diversity,"[6] with "[t]he number of non-white students [having risen] by 200% statewide in the last 20 years, driven in large part by growing diversity in cities like Manchester and Nashua."[7] In Manchester, the child population went from 94% white in 1990 to 57% in 2020.[8] These disproportionately non-white, urban school systems are significantly underfunded. Manchester's level of spending per pupil ($18,020.90 for 2024–25) and Nashua's level of spending per pupil ($18,376.45 for 2024–25) are among the lowest in the state, well below the state average of $22,699.85.[9]

Granite Staters of all racial and ethnic backgrounds have come to rely on *Claremont I* and its progeny, but if the Court abandons those precedents, the impact of its decision would fall on students in property-

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[6] Kenneth Johnson, *Modest Population Gains, but Growing Diversity in New Hampshire with Children in the Vanguard*, Carsey School of Public Policy (Aug. 30, 2021), *available at* https://carsey.unh.edu/publication/modest-population-gains-growing-diversity-new-hampshire-children-vanguard.

[7] *See* Sarah Gibson, *How New England's Lack of Teacher Diversity is Affecting Students at N.H.'s Largest School District*, NHPR (June 22, 2022), *available at* https://www.nhpr.org/nhnews/2022-06-22/manchester-nh-student-teacher-diversity-enrollment-demographics.

[8] Michael Cousineau, *NH Grows More Diverse, Faces Call for Change*, Union Leader (Dec. 18, 2021) (updated Mar. 22, 2022), *available at* https://www.unionleader.com/news/article_8c1cfc2d-73c1-51f3-9a5d-939525c3c21e-0b318f66.

[9] New Hampshire Department of Education, *Cost Per Pupil by District, 2024-2025* (Jan. 8, 2026), *available at* https://www.education.nh.gov/sites/g/files/ehbemt326/files/inline-documents/sonh/cost-per-pupil-fy2025.pdf.

poor jurisdictions throughout the state, and disproportionately on communities of color.

II. *Claremont I* and its progeny remain workable, as experiences in states beyond New Hampshire confirm.

The State devotes most of its request to overrule *Claremont I* to the purported unworkability of this Court's decisions on the constitutional right to an adequate education.[10] And in doing so, the State cherry-picks a couple of unrepresentative examples from state supreme courts that have held unenforceable their states' constitutional right to an adequate education. *See* Appellant's Br. 99–101 (citing *Neb. Coalition for Educ. Equity & Adequacy v. Heineman*, 731 N.W.2d 164 (Neb. 2007) and *Coalition for Adequacy & Fairness in Sch. Funding v. Chiles*, 680 So. 2d 400 (Fla. 1996)).

Those arguments fall flat. Appellees will no doubt highlight the ways in which New Hampshire's own experiences undercut the State's workability claims. *Amici* seek to assist the Court here by highlighting how other states approach implementation of constitutional rights to education, and explaining why the out-of-state cases on which the State relies are unpersuasive outliers. As explained in more detail below, courts in most states have held their state constitutional right to an adequate education is

[10] The State takes two distinct but closely related paths to this argument. First, it insists that *Claremont I* and its progeny have proven unworkable under the *stare decisis* analysis, such that it is appropriate to overturn them. *See* Appellant's Br. 78–82. Second, as a backup, the State invokes the political question doctrine to argue that the Court must abandon the four mandates recognized in *Londonderry I*. *Amici* discuss the political question doctrine in Part IV.

enforceable through litigation.[11] And on a more granular level, other states have analogues for the "four mandates" that this Court has recognized "comprise the State's duty to provide an adequate education." *Londonderry I*, 154 N.H. at 156. These mandates require the Legislature to (1) "define an adequate education," (2) "determine the cost," (3) "fund it with constitutional taxes," and (4) "ensure its delivery through accountability." *Id*. at 155–56 (describing the holding of *Claremont II*, 142 N.H. 462); *see also ConVal I*, 174 N.H. at 156–57 (recognizing these requirements). These four mandates in other states are regularly enforced and administrable.

A. Other courts require the political branches to define an adequate education.

This Court's first constitutional adequacy mandate—that the State "define an adequate education," *Londonderry I*, 154 N.H. at 156, using "general, aspirational guidelines" set out by the Court, *Claremont II*, 142 N.H. at 474–75—is consistent with the approach of many other states' supreme courts. For example, in *Rose v. Council for Better Education, Inc.*, the Kentucky Supreme Court identified seven broad criteria that a constitutionally adequate education must instill in students. 790 S.W.2d 186, 212 (Ky. 1989).[12] This Court cited those criteria with approval in

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[11] *See* Youth Advocacy & Policy Lab, Harvard Law School, *School-Funding Court Decisions*, *available at* https://ylab.law.harvard.edu/school-funding/ (last visited Nov. 3, 2026); Anne Gordon, *California Constitutional Law: The Right to an Adequate Education*, 67 Hastings L.J. 323, 352 (2016) ("[O]nly a minority of states have found that their education clauses confer no substantive right.").

[12] The seven skillsets are: "(i) sufficient oral and written communication skills to enable students to function in a complex and rapidly

Claremont II, describing them as "benchmarks of a constitutionally adequate public education." 142 N.H. at 475. And this Court is not alone in relying on Kentucky's *Rose* criteria: at least three other state supreme courts have embraced them as constitutional benchmarks of adequate education. *McDuffy v. Sec'y of Exec. Office of Educ*., 615 N.E.2d 516, 554 (Mass. 1993); *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee*, 91 S.W.3d 472, 487 (Ark. 2002), *supplemented*, 189 S.W.3d 1 (Ark. 2004) ("*Lake View I*"); *Gannon v. State*, 319 P.3d 1196, 1236 (Kan. 2014).

Other courts have adopted slightly different, but substantially similar, benchmarks. *See Pauley v. Kelly*, 255 S.E.2d 859 (W. Va. 1979) (identifying eight high-level goals for constitutionally adequate education); *Abbeville Cnty. Sch. Dist. v. State*, 515 S.E.2d 535, 540 (S.C. 1999) (identifying "(1) the ability to read, write, and speak the English language, and knowledge of mathematics and physical science; (2) a fundamental knowledge of economic, social, and political systems, and of history and governmental processes; and (3) academic and vocational skills");

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changing civilization; (ii) sufficient knowledge of economic, social, and political systems to enable the student to make informed choices; (iii) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state, and nation; (iv) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (v) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (vi) sufficient training or preparation for advanced training in either academic or vocational fields so as to enable each child to choose and pursue life work intelligently; and (vii) sufficient levels of academic or vocational skills to enable public school students to compete favorably with their counterparts in surrounding states, in academics or in the job market." *Rose*, 790 S.W.2d at 212.

Campaign for Fiscal Equity, Inc. v. State, 801 N.E.2d 326, 330 (N.Y. 2003) ("*CFE I*") ("[W]e equate a sound basic education with the basic literacy, calculating, and verbal skills necessary to enable children to eventually function productively as civic participants capable of voting and serving on a jury." (quotations omitted)).

At the same time, this Court has been careful not to prescribe specific details of education policy. Instead, it leaves to the political branches the task of "giv[ing] specific substantive content . . . to the program . . . deem[ed] necessary to provide that 'education' within the broad guidelines." *Claremont II*, 142 N.H. at 475 (quoting *Seattle Sch. Dist. No. 1 of King Cty. v. State*, 585 P.2d 71 (Wash. 1978)). This, too, reflects the approach that other state supreme courts have taken. *See, e.g.*, *McCleary v. State*, 269 P.3d 227, 231–33 (Wash. 2012) (detailing legislative process following *Seattle Sch. Dist.* decision); *Londonderry I*, 154 N.H. at 158–59 (detailing processes following court decisions in Kentucky, West Virginia, and elsewhere). All told, there is nothing unusual, let alone unworkable, about this Court's mandate requiring the Legislature to further define the particulars of what constitutes an adequate education based on broad judicial guidelines.

B. Legislatures elsewhere must determine the education costs with granularity.

The second of the four mandates—requiring the State to "determine the cost" of an adequate education, *Londonderry I*, 154 N.H. at 155—also has analogues in other states. In New York, for example, the state's highest court affirmed an order requiring the state to "ascertain the actual cost of providing a sound basic education in New York City" and set a date-certain

by which the process would have to be completed. *CFE I*, 801 N.E.2d at 348. New York's political branches were able to comply with this mandate, successfully defending its adequacy over the objections of plaintiffs. *Campaign for Fiscal Equity, Inc. v. State*, 861 N.E.2d 50, 57 (N.Y. 2006) ("*CFE II*").

In other instances, courts have, through their opinions, strongly suggested the need for a detailed determination of costs, even if they have declined to explicitly order one. In Arkansas, for example, the Supreme Court held that state's education system was constitutionally inadequate, highlighting the failure to conduct any "studies on the per-student cost to provide 'a general, suitable and efficient' educational opportunity to Arkansas schoolchildren." *Lake View I*, 91 S.W.3d at 486. The court, after identifying these shortcomings, stayed its order to allow the political branches to develop a response. *Id*. at 511. While the response was not immediate and required additional intervention from the court, the legislature ultimately detailed costs in a study that the court called "laudable." *Lake View Sch. Dist. No. 25 of Phillips Cnty. v. Huckabee*, 189 S.W.3d 1, 14–15 (Ark. 2004) ("*Lake View II*"); *see also Lake View Sch. Dist. No. 25 v. Huckabee*, 257 S.W.3d 879, 882–84 (Ark. 2007) ("*Lake View III*") (subsequent closure of case after legislature funded those costs).

And while the State criticizes (at 53) this Court's precedent in requiring a certain level of specificity in cost accounting, that requirement is also not unique to this Court. *See ConVal II*, 177 N.H. at 426–27 (requiring legislature to account for costs of facilities' operation and maintenance, transportation, principals, administrative assistants, custodians, and nurses). The Wyoming Supreme Court, for example,

required its legislature to adjust a cost study to more fully and accurately account for non-teacher salaries, utilities, and transportation costs, among other things. *See State v. Campbell Cnty. Sch. Dist.,* 19 P.3d 518, 544 (Wyo. 2001), *on reh'g*, 2 P.3d 325 (Wyo. 2001) ("*Campbell Cnty. I*"). This requirement did not prove unworkable to the Wyoming Legislature. *See Campbell Cnty. Sch. Dist. v. State*, 181 P.3d 43, 51 (Wyo. 2008) (explaining that Legislature successfully accounted for these costs after working with a private firm it chose to develop and adjust cost assessment).

Across the nation, cost studies of this kind are also common practice. Most states have used these studies to help determine education policy, often in response to court decisions regarding constitutional guarantees of education.[13] And many courts have joined this Court in concluding that determining the cost of an adequate education is a necessary component of providing that education. *See, e.g.*, *CFE I*, 801 N.E.2d at 348; *Campbell Cnty. I*, 19 P.3d at 544. There is nothing unworkable about this requirement. Assessing the costs of services is a basic obligation of governance. In fact, New Hampshire law already requires fiscal details to accompany legislation affecting "the revenues, expenditures, or fiscal liability of the state or a city or town or county." *See* RSA 14:44.

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[13] *See Testimony of the Education Adequacy Project Clinic of Yale Law School to the Education Committee Concerning Senate Bill 2 & House Bill 7035*, at 7 (2017), *available at* https://law.yale.edu/sites/default/files/area/clinic/document/testimony_of_the_education_adequacy_project_clinic_of_yale_law_school_to_the_education_committee_concerning_senate_bill_2_and_house_bill_7035_mar._1_2017_final.pdf.

C. Courts commonly require that statewide taxes fund the cost of education.

Courts elsewhere have also held, like this Court has, that an educational-adequacy right imposes a State obligation to fund an adequate education system through constitutional taxes. *See Londonderry I*, 154 N.H. at 155–56. In New Hampshire, taxes used to fund education are statewide and—to comply with Part II, Article 5 of the state Constitution—must be uniform. *Claremont II*, 142 N.H. at 469. The Court's review of the Legislature's use of taxing power to fund education is again well within the norm nationally.

In Washington, for example, the state Supreme Court has repeatedly held that the state cannot satisfy its funding obligations by relying on local taxes. *Seattle Sch. Dist. No. 1*, 585 P.2d at 96; *McCleary*, 269 P.3d at 252. There, the court reasoned that local taxes are too variable and too unequal to sufficiently fund education, especially in property-poor areas. *See McCleary*, 269 P.3d at 252. Similarly, Ohio's Supreme Court ordered "a complete systematic overhaul" to the state's public school financing system, emphasizing the problems with the state's reliance on local rather than statewide taxes. *DeRolph v. State*, 677 N.E.2d 733, 746 (Ohio 1997).[14]

[14] The Ohio Supreme Court noted at the time that "Ohio relie[d] more on local revenue than state revenue, contrary to the national trend." *DeRolph*, 677 N.E.2d at 738. Today, New Hampshire ranks last in the nation for state revenue as a percentage of total revenue spent per pupil. *See* NEA-NH, Press Release, *New Data Shows NH Still 50th in the Nation for State Public Education Funding, Minimal Gains in Educator Pay Overshadowed by Steep Decline in Teachers Year Over Year* (Apr. 27, 2026), *available at*

The Wyoming Supreme Court, meanwhile, has long held that "statewide wealth must fund all school districts" and that "funding public schools with local property (ad valorem) taxes" is constitutionally suspect. *State v. Wyo. Educ. Ass'n*, 597 P.3d 246, 252 (Wyo. 2026) (citing *Sweetwater Cnty. Planning Comm. for Org. of Sch. Dists. v. Hinkle*, 491 P.2d 1234, 1236–37 (Wyo. 1971)); *see also id.* at 252–55 (recounting long history of Wyoming Supreme Court policing financing scheme of public schools to ensure statewide equity).

Questions regarding the proper interpretation of Part II, Article 5, may be unique to New Hampshire, but judicial scrutiny of school funding is far from unique to this state. There is nothing unworkable about that scrutiny.

D. Courts commonly require legislatures to establish a system of accountability in education.

Finally, this Court is in good company in interpreting educational adequacy to require the Legislature to establish meaningful standards of accountability. *Claremont Accountability*, 147 N.H. at 500; *see also Londonderry I*, 154 N.H. at 156. In New Hampshire, that obligation entails developing and enforcing metrics to measure school performance; simply "encourag[ing] school districts to develop a local education improvement and assessment plan" is insufficient to satisfy the State's constitutional obligation. *Claremont Accountability*, 147 N.H. at 517. That accountability requirement, like other obligations flowing from the States's duty to

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https://neanh.org/about-nea-nh/media-center/press-releases/new-data-shows-nh-still-50th-nation-state-public-education.

provide an adequate education, is not unique to New Hampshire. Indeed, in describing the obligation, this Court invoked the experiences of other states, including examples where legislatures were wholly competent to—*and did*—create such accountability plans. *See id.* at 509 (citing judicial decisions and/or legislative responses from Massachusetts, Ohio, New Jersey, and Tennessee, among others). The Court observed, for example, that the Massachusetts legislature responded to its highest court with "a system of accountability whereby the state board of education was given authority to establish specific performance standards and a program for remediation when students' test scores fall below a certain level." *Id.*

Since this Court's earlier decisions, several other state courts have imposed similar requirements on legislatures to establish and enforce accountability metrics as part of their obligation to provide an adequate education. In New York, for example, the state's highest court required the legislature to "ensure a system of accountability to measure whether [educational] reforms actually provide the opportunity for a sound basic education." *CFE I*, 801 N.E.2d at 348. And in New York, the political branches responded to the court's decision by creating systems to "identify[] schools that perform poorly and sanction[] failing schools," *CFE II*, 861 N.E.2d at 56, in a manner that "undisputed[ly]" created "adequate accountability mechanisms," *id.* at 61. Likewise, Arkansas's Supreme Court concluded years of litigation over school financing, emphasizing the political branches' success in embracing and establishing systems of accountability. *Lake View III*, 257 S.W.3d at 883 ("A critical component of this undertaking has been the comprehensive system for accounting and accountability, which has been put in place to provide state oversight of

school-district expenditures."). While these states relied on different types of accountability mechanisms, each was able to establish systems that meaningfully reviewed and enforced school performance metrics, and judicial review of those systems was entirely workable. New Hampshire is capable of that, too.

* * *

Nothing about this Court's education jurisprudence is extraordinary, or even unusual, as the experiences of other state legislatures and supreme courts demonstrate. Other state legislatures have been able to comply with mandates that resemble those found in *Claremont I* and its progeny. In New Hampshire, the Legislature's refusal to comply with this Court's constitutional decisions is evidence of legislative foot-dragging, not of the unworkability of those decisions.[15] *Cf. Campbell Cnty. I*, 19 P.3d at 566 (Wyo. 2001) (rejecting notion that "environment of tax revenue shortfalls" can justify denying constitutional right to education); *Twelve John Does v. D.C.*, 855 F.2d 874, 878 (D.C. Cir. 1988) ("political difficulties" do not

[15] The State's argument invites a legislative veto of court decisions under the guise of "unworkability." Consider the "massive resistance" to the United States Supreme Court's decisions in *Brown v. Board of Education of Topeka, Kan.,* 347 U.S. 483 (1954), and *Brown v. Board of Education*, 349 U.S. 294 (1955), which made implementation difficult. Under the State's theory, legislative resistance to *Brown* would be evidence of the unworkability of the decisions and reason to abandon them. Thankfully, the U.S. Supreme Court held firm. *See, e.g.*, *Griffin v. Cnty. Sch. Bd. of Prince Edward Cnty.*, 377 U.S. 218 (1964); *Cooper v. Aaron*, 358 U.S. 1 (1958); *Lee v. Macon Cnty. Bd. of Educ.*, 267 F. Supp. 458, 460–64 (M.D. Ala. 1967), *aff'd*, *Wallace v. United States*, 389 U.S. 215 (1967). This Court should do the same and reject the State's efforts to undermine its precedents as unworkable.

establish impossibility of complying with court order). Accordingly, the State's request to jettison *Claremont I* and its progeny on the ground that they have proven unworkable should be denied.

III. Neither related principles of law nor facts on the ground have outpaced *Claremont I*.

In determining whether to abandon its precedent, the Court considers if "related principles of law have so far developed as to have left the old rule no more than a remnant of an abandoned doctrine," or whether "the facts have so changed, or come to be seen so differently, as to have robbed the old rule of significant application or justification." *N.H. Democratic Party*, 174 N.H. at 326. The State wholly ignores the latter factor and makes no effort to show factual change justifying abandoning *Claremont I*. *See generally* Appellant's Br. 77–89. In any event, neither of these considerations supports overruling *Claremont I*.

First, although the State makes a passing argument (at 84–87) that principles of law have overtaken *Claremont I*, its real problem with the case appears to be that it is *not* vestigial and is actively used, *see id.* at 43–57. This Court has repeatedly applied *Claremont* and its progeny over the past three decades, most recently just sixteen months ago, in *ConVal II*, 177 N.H. at 412. And at that time, the State did not even see fit to "contest these longstanding legal principles." *Id.*[16] *Id*. A repeatedly and recently applied

[16] Just six years ago, the State told this Court that it was not arguing that *Claremont I* and/or its progeny were wrongly decided. *See* N.H. Supreme Ct. Oral Argument in Contoocook Valley Sch. Dist. v. State, No. 2019-0500 (Sept. 24, 2020), *available at* https://vimeo.com/1000548128 (20:40-21:15) (the Department of Justice—when asked to confirm that the State was making no claim "that *Claremont I* or *Claremont II* or any of its progeny

jurisprudence is definitionally not "a remnant of an abandoned doctrine." *N.H. Democratic Party*, 174 N.H. at 326.

The State's real gripe, then, is not that *Claremont I* is outdated or out of use, but that it thinks *Claremont I* was wrongly decided. *See* Appellant's Br. 59–69. But *stare decisis* requires more than just mere disagreement with a case outcome. *Quintero*, 162 N.H. at 539 ("[P]rincipled application of *stare decisis* requires a court" to follow precedent absent "some special reason over and above the belief that a prior case was wrongly decided.") (citation omitted).

Instead, "when asked to reconsider a previous holding, the question is not whether [the Court] would decide the issue differently *de novo*, but whether the ruling has come to be seen so clearly as error that its enforcement was for that very reason doomed." *Rallis*, 159 N.H. at 102 (quotation omitted). And the State comes nowhere close to meeting that high bar. *Claremont I* faithfully applied the plain text of the constitutional "duty of the legislators" to "cherish the interest of literature and the science," as illuminated by founding-era dictionaries. *See Claremont I*, 138 N.H. at 187. Moreover, the Court relied on extensive evidence of the contemporaneous understanding of the Founders. *Id.* at 188–90. And it is not just this Court that concluded as much. Massachusetts' Supreme Judicial Court[17] has also held that its constitutional Encouragement of

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were wrongly decided and should be reversed"—stated that "we have not made that argument, your Honor, that's correct").

[17] "Because New Hampshire modeled much of its constitution on the constitution adopted by Massachusetts four years earlier … [this Court] give[s] weight to the interpretation given that provision by the

Literature Clause—which New Hampshire's clause mirrors—creates a meaningful duty for the state to provide an adequate education. *See McDuffy,* 615 N.E.2d at 554. Like this Court, the Massachusetts court examined the plain text and history of the provision to conclude that it was more than a mere aspirational statement. *Id.* Between this Court's repeated reaffirmation of *Claremont I*, the State's own prior position that *Claremont I* need not be overruled, and the Massachusetts court's analysis of the two states' shared provision and history, there is no serious case to be made that *Claremont I*'s holding has "come to be seen so clearly as error that its enforcement was . . . doomed." *Rallis*, 159 N.H. at 102.

Carrigan v. New Hampshire Department of Health & Human Services, on which the State relies (at 85), does not change that conclusion. 174 N.H. 362, 373 (2021). In *Carrigan*, the plaintiff relied on taxpayer standing to allege that the state's inadequate "response to the child abuse and neglect crisis [wa]s illegal and unconstitutional." 174 N.H. at 365–66. She did not challenge any specific expenditures or discrete acts by the Department. *Id.* at 374–75. Instead, she tied the alleged failure to the Department's budgetary decisions as a whole. *Id.* at 366. This Court rejected that effort, which called for it to "[s]crutiniz[e] the entire realm of a governmental body's spending activity . . . to determine what aspects of its spending decisions, if any, [were] causing injury." *Id.* at 374. But the Court drew a sharp contrast with permissible litigant requests for the Court to

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Massachusetts Supreme Judicial Court." *State v. Warren*, 177 N.H. 196, 202 (2025) (quotation and citation omitted).

"[a]nalyz[e] the legality of a discrete governmental action and determin[e] the remedy, if the action is illegal." *Id*.

Here, that is exactly what the Court is asked to do. Plaintiffs' challenge is focused on the legality of a specific act: the costs the State assigns to providing a constitutionally adequate education under one statute, RSA 198:40-a. *See also Claremont Accountability*, 147 N.H. at 518 (challenging accountability standards); *Londonderry I*, 154 N.H. at 162 (definition of adequate education); *ConVal II*, 177 N.H. at 438 (sufficiency of cost assessment); *Rand v. State*, 177 N.H. at 383 (tax administration scheme). Resolving this challenge to discrete governmental action is "quotidian . . . business for the judiciary," as *Carrigan* recognized. 174 N.H. at 374; *see also supra* Part II.B (explaining that courts nationally resolve disputes over government action to fulfill the right to education).

IV. The Court should also reject the State's effort to collaterally attack *Claremont I* and progeny through the political-question doctrine.

Apart from its briefing regarding the *stare decisis* factors, the State argues that education cost assessment and funding issues present non-justiciable political questions. *See* Appellant's Br. 92–103. But that argument is just as much an effort to overturn *Claremont I* and its progeny as the State's others. A reassessment of the justiciability of rights under *Claremont I* should not be made *de novo*, and the Court cannot entertain it separate from a traditional, demanding *stare decisis* analysis. *See Rallis*, 159 N.H. at 102.

In any event, the State's invocation of the political question doctrine is incorrect on its merits. While Appellees will certainly address this issue,

Amici write to emphasize that recognizing and enforcing a right to education has not transformed this Court—or courts elsewhere—into policymakers. *Contra* Appellant's Br. 92–95.

Far from entering the policymaking fray, this Court has consistently emphasized the primacy of the political branches in education policy. *See, e.g.*, *Claremont I*, 138 N.H. at 193 (encouraging political branches to make decisions "with respect to defining the specifics of, and the appropriate means to provide through public education, the knowledge and learning essential to the preservation of a free government"); *Claremont II*, 142 N.H. at 476 (noting Legislature has "wide latitude in choosing the means by which public education is to be supported."). It has left it to the Legislature to specify the curriculum and substance of an adequate education, constrained only by broad, aspirational guidelines. *Claremont II*, 142 N.H. at 475; *see also supra* n.12 and accompanying text. And it has emphasized that the Legislature's definition of education adequacy provides the baseline against which other requirements must be measured. *See Londonderry I*, 154 N.H. at 162 (explaining adequacy definition informs cost, funding, and accountability assessments); *contra* Appellant's Br. 98–99 (suggesting the only way to adjudicate education disputes is for the Court to make its own initial policy determinations). Similarly, the Court has recognized that the Legislature is entitled to choose from "several ways" to develop "meaningful standards of accountability," noting that the "legislative branch is uniquely suited" to make these "complex" policy choices. *Claremont Accountability*, 147 N.H. at 518. The Court has avoided stepping into the Legislature's shoes in each of these decisions.

But in doing so, the Court has not abandoned its constitutional role. "While it is appropriate to give due deference to a co-equal branch of government as long as it is functioning within constitutional constraints, it would be a serious dereliction on [the Court's] part to deliberately ignore a clear constitutional violation." *Baines v. N.H. Senate President*, 152 N.H. 124, 132 (2005). So when the Legislature shirked its obligation to define an adequate education by relying on unmeasurable generalities, the Court stepped in. *Londonderry I*, 154 N.H. at 162. And when the Legislature refused to impose meaningful accountability measures, the Court required it try again. *Claremont Accountability*, 147 N.H. at 519. But in neither case did the Court substitute its own policy judgments for the Legislature's. *See Londonderry I*, 154 N.H. at 162–63 (retaining jurisdiction to allow political branches to "define with specificity the components of a constitutionally adequate education" and refraining from offering own definition); *Claremont Accountability*, 147 N.H. at 518 ("It is for the Governor and the legislature to choose how to measure or evaluate whether a constitutionally adequate education is being provided and what action to take if a school is determined to be deficient."). The Court simply declined to ignore constitutional violations and required the political branches to do more. That is the Court's role in New Hampshire's tripartite government. *See, e.g.*, *Pet. of Judicial Conduct Comm.*, 145 N.H. 108, 113 (2000).

Indeed, even the judiciary's most assertive action to date was carefully circumscribed. In *ConVal II*, the Court affirmed a trial court's determination that a "conservative minimum threshold" for base adequacy aid was approximately $7,300. 177 N.H. at 432. This action proved necessary only because the Legislature had failed to account for significant

components of educational costs. *See id.* at 432 (noting failure to account for costs of administrators, custodial staff, and facilities); *see also supra* Part II.B (explaining other courts' similar practices). The trial court explicitly declined to determine the "exact" funding needed to avoid encroaching on the political branches' constitutional roles and based its determination of a minimum threshold on extensive trial evidence. *Id.* at 432–35. And this Court, while affirming that determination, reversed the order of injunctive relief and instead "urge[d] the legislative and executive branches" to remedy the identified constitutional violation. *Id*. at 438. Both the trial court and this Court explained that the legislature had ample room to "meaningfully alter[] the education funding scheme," with the court's identified threshold figure serving as a "guidepost" if the legislature chose to maintain its current approach. *Id.* at 432–33. All told, the judiciary made a specific cost determination that (1) was based on a conservative minimum estimate, (2) declined to identify more than that conservative minimum, (3) rooted that minimum in extensive adversarial fact-finding, (4) imposed no injunction on the state, (5) and permitted the political branches to replace its funding scheme wholesale if it so chose. Nothing about this usurps the Legislature's policymaking role.

The experiences of other states further undermine the State's argument that *Claremont I* and its progeny turn New Hampshire's judges into policymakers. That argument is immediately belied by the fact that most states have recognized a judicially enforceable right to education. *See supra* n.12. Enforcing their states' constitutional right to an adequate education has not transformed courts in the majority of American states into policymakers, contrary to the State's intimation. And, as catalogued above,

many of these states have imposed mandates similar to New Hampshire's. *See supra* Part II.

In fact, this Court's general approach to enforcing the right to education mirrors that of other courts. Like this Court, state supreme courts elsewhere have recognized that the political branches are responsible for making education policy. *See, e.g.*, *CFE II*, 861 N.E.2d at 58 (emphasizing deference to legislature so long as it complies with constitutional minimums). And, like this Court, they have given those branches a wide berth to determine substantive education policy and the means to achieve it. *Rose*, 790 S.W.2d at 211 ("We do not make policy. We do not substitute our judgment for that of the General Assembly."); *id.* at 216 (noting legislature has authority to achieve constitutional minimums in a variety of ways).

But these courts have not shunned their constitutional role. *See, e.g.*, *CFE I,* 801 N.E.2d at 341 ("Decisions about spending priorities are indeed the Legislature's province, but we have a duty to determine whether the State is providing students with the opportunity for a sound basic education."). When necessary, they have declared that the political branches have failed to comply with their obligations and ordered remedial steps. *See, e.g.*, *id.* at 349 (ordering a variety of remedial steps, including cost study); *Lake View I*, 91 S.W.3d at 511 (emphasizing frustration with legislature and need for action); *McCleary*, 269 P.3d at 261 (holding legislature had failed to comply with constitutional mandate while "defer[ing] to the legislature's chosen means of discharging its . . . duty" and "retain[ing] jurisdiction over the case to help ensure progress in the State's plan to fully implement education reforms"). This Court has actually been *less* assertive than other states' courts. *Compare Pauley v. Bailey*, 324

S.E.2d 128, 131 & n.5 (W. Va. 1984) (appointment of special master to define educational standards after political branches' insufficient action), *with Claremont Sch. Dist. v. Governor (Statewide Property Tax Phase–In*), 144 N.H. 210 (1999) (denying motion for special master as premature); *Londonderry I*, 154 N.H. at 163 (giving Legislature additional time—nearly ten years after *Claremont II*—to define adequacy).

Indeed, once the legislature defines an adequate education, those policies can serve a baseline. *See, e.g.*, *William Penn Sch. Dist. v. Pa. Dep't of Educ.*, 170 A.3d 414, 447 (Pa. 2017) ("[B]ecause a court can rely upon standards already established by the legislature . . . without fashioning a fixed baseline standard out of whole cloth, judicial oversight does not require . . . policy-making function."); *Idaho Schs. for Equal Educ. Opportunity v. Evans*, 850 P.2d 724, 734 (Idaho 1993) (court can rely on political branches' sufficient education standards); *accord Londonderry I*, 154 N.H. at 162. Rather than setting policy, courts need only determine whether the political branches' chosen policies meet constitutional minimums. The Minnesota Supreme Court put it succinctly: "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." *Cruz-Guzman v. State*, 916 N.W.2d 1, 9 (Minn. 2018).

The upshot is that in other states, just like in New Hampshire, giving the political branches runway to set education policy does not require abdicating the judiciary's role in protecting constitutional rights. Determining whether the political branches' policies comply with the constitution is the everyday work of the judiciary. "[D]ozens of . . . sister

courts" have concluded "that it is feasible for a court to give meaning and force to . . . a constitutional mandate to furnish education of a specified quality . . . without trammeling the legislature in derogation of the separation of powers." *William Penn Sch. Dist.*, 170 A.3d at 457. As Minnesota's court observed, at their core, challenges under education clauses typically "ask the judiciary to answer a yes or no question—whether the Legislature has violated its constitutional duty" to provide an adequate education. *Cruz-Guzman*, 916 N.W.2d at 9. That's no less true of the cases this Court has adjudicated. *See Carrigan*, 174 N.H. at 374 ("Analyzing the legality of a discrete governmental action and determining the remedy, if the action is illegal, is quotidian, though often difficult, business for the judiciary.").

And although the State complains (at 80) that this Court has had to weigh in repeatedly when the political branches have failed to meet their constitutional obligations, judicial review is a feature, not a bug, of this system. A party's noncompliance with a court order indicates that the party, not the court, is doing something wrong. *Contra* Appellant's Br. 78–80. The fact that the Legislature has fallen short of meeting its constitutional obligations underscores that judicial involvement is needed, not that it is problematic.[18] "It is the role of this [C]ourt in [New Hampshire's] co-equal, tripartite form of government to interpret the Constitution, . . . [and] to

[18] While New Hampshire's Legislature is not unique in resisting court-ordered school-financing reforms, many other legislatures have swiftly complied with court orders, yielding positive results for schools and students. *See* Michael A. Rebell, *State Courts and Education Finance: Past, Present and Future*, 2021 BYU Education & Law Journal 113, 135–36 (2022).

determine whether the legislature has complied with [its provisions]." *Burt v. Speaker of the House of Representatives*, 173 N.H. 522, 528 (2020) (citations and alteration omitted). The Arkansas Supreme Court dispensed with similar arguments to the ones the State makes here, nearly a decade into litigation over that state's education financing. It "refuse[d] to close [its] eyes . . . to claims of a dereliction of duty in the field of education," because doing so "would be a complete abrogation of [its] judicial responsibility and would work a severe disservice to the people of [the] state." *Lake View I*, 91 S.W.3d at 484. Because that court refused to abrogate its duty, the state achieved constitutional compliance with "the hard work of the Masters, the General Assembly, and the executive branch." *Lake View III*, 257 S.W.3d at 880; *see also Idaho Schs.*, 850 P.2d at 734 ("[W]e decline to accept the respondents' argument that the other branches of government be allowed to interpret the constitution for us.").

Moreover, any back-and-forth between this Court and the Legislature demonstrates that the Court is not encroaching on the Legislature's prerogative. Most notably, the Legislature itself has repeatedly rejected bills seeking to overrule or limit *Claremont I* and its progeny through constitutional amendments—including bills that explicitly criticized the Court for purported violations of separation of power.[19] The

[19] *See, e.g.*, CACR 46, 1997–1998 Gen. Ct., Reg. Sess. (N.H. 1998) (House deeming inexpedient to legislate proposed constitutional amendment stating, in part, that the right of every child to an adequate education shall be enforced by appropriate legislation); CACR 34, 2007–2008 Gen. Ct., Reg. Sess. (N.H. 2008) (House deeming inexpedient to legislate constitutional amendment proposed by Senate stating that it is the legislature that shall define an adequate education); CACR 11, 2009–2010 Gen. Ct., Reg. Sess.

Legislature has shown that it is capable of rejecting decisions of this Court, as it did by amending Part I, Article 8 following this Court's decision in *Duncan v. State*, 166 N.H. 630 (2014). The fact that it has declined to do so with the Court's education cases undermines the State's litigation posture that these cases have subverted the Legislature's policymaking role.

CONCLUSION

This Court should reject the State's attempt to upend education financing in New Hampshire. *Stare decisis* principles cut sharply against overruling *Claremont I* and its progeny. The Court should reaffirm its prior decisions and direct the State to finally fulfill its constitutional duty to provide an adequate education through fair taxation without further delay.

Respectfully Submitted,

AMERICAN CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION OF NEW HAMPSHIRE, AND NATIONAL EDUCATION ASSOCIATION-NEW HAMPSHIRE

By their attorneys,

/s/ Henry R. Klementowicz

(N.H. 2009) (Senate tabling proposed constitutional amendment stating that it is the legislature that shall define an adequate education); CACR 34, 2009–2010 Gen. Ct., Reg. Sess. (N.H. 2010) (Senate tabling proposed constitutional amendment stating that it is the legislature that shall define an adequate education); CACR 3, 2015–2016 Gen. Ct., Reg. Sess. (N.H. 2015) (Senate deeming inexpedient to legislate proposed constitutional amendment stating that the legislature determine the standards for an adequate education).

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STATEMENT OF COMPLIANCE

I hereby certify that pursuant to Rule 16(11) of the New Hampshire Supreme Court Rules, this brief contains approximately 8,643 words, which is fewer than the 9,500 words permitted by this Court's rules. Counsel relied upon the word count of the computer program used to prepare this brief.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of forgoing was served this 3rd day of November, 2026 to all counsel of record.

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