

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

William Penn S.D.; Panther Valley :
S.D.; The School District of Lancaster; :
Greater Johnstown S.D.; Wilkes-Barre :
Area S.D.; Shenandoah Valley S.D.; :
Jamella and Bryant Miller, parents of :
K.M., a minor; Sheila Armstrong, :
parent of S.A., a minor; Tyesha :
Strickland, parent of E.T., minor; :
Angel Martinez, parent of A.M., :
minor; Barbara Nemeth, parent of :
C.M. minor; Tracy Hughes, parent of :
P.M.H. minor; Pennsylvania Assoc. of :
Rural and Small Schools; and The :
National Association for the :
Advancement of Colored People – :
Pennsylvania State Conference, :
Petitioners :

No. 587 M.D. 2014

v.

Pennsylvania Dept. of Education; :
Joseph B. Scarnati, III, in his official :
capacity as President Pro-Tempore of :
the Pennsylvania Senate; Michael C. :
Turzai, in his official capacity as the :
Speaker of the Pennsylvania House of :
Representatives; Tom W. Wolf, in his :
official capacity as the Governor of the :
Commonwealth of Pennsylvania; :
Pennsylvania State Bd. of Education; :
and Pedro Rivera, in his official :
capacity as the Secretary of Education, :
Respondents :

ANSWER TO PETITION FOR REVIEW

Respondent the State Board of Education, through its undersigned counsel, and in accordance with Pa. R.A.P. Rule 1516(b) and the order of this honorable Court of August 21, 2018, hereby answers the Petition for Review as follows:

1. It is Admitted that the Commonwealth of Pennsylvania has recognized a societal interest in public education and that Respondents are charged to pursue this interest as provided in the Constitution and statutes of Pennsylvania. It is Admitted that PA. CONST. art. 3, § 14 (education clause) compels the General Assembly to “provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.” It is Admitted that through statutes and regulations, Respondents have established state academic standards. It is Denied as a conclusion of law that these standards “define precisely what an adequate education entails.” It is further Denied that Respondents “have adopted an irrational and inequitable school financing arrangement that drastically underfunds school districts across the Commonwealth and discriminates against children on the basis of the taxable property and household incomes in their districts.” It is Denied as a conclusion of law that Respondents in general and the Board in particular have violated either PA. CONST. art. 3, § 14 or PA. CONST. art. 3, § 32 (equal protection clause).

2. The averments of this paragraph constitute a conclusion of law to which no response is required, and as such it is Denied.

3. It is Denied as a conclusion of law that “the current school financing arrangement does not satisfy [the constitutional] mandate” and further Denied that “Respondents are well aware” of this alleged conclusion. It is Admitted that the General Assembly passed Act 114 of 2006 and that the Board’s costing-out study completed in 2007 found that 30 districts spent more and 471 districts spent less than the costing-out estimate and that “In the aggregate, the costing-out estimate is \$4.38 billion higher than current spending.” After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the remaining averments of this paragraph and as such they are Denied.

4-12. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

13. It is Admitted that Petitioners seek such an injunction. The appropriateness of such an injunction is a conclusion of law to which no response is required and as such it is Denied.

14. Admitted.

15. It is Admitted that Petitioners include Pennsylvania public school districts from both large and small communities throughout the Commonwealth,

individuals who are the parents or natural guardians of children currently attending public school in these or other districts and organizations with members who believe that they are adversely affected by the current funding of public education in Pennsylvania. It is Denied as a conclusion of law that Respondents have failed to comply with the Education Clause and the Equal Protection Clause.

16-22. Admitted.

23-74. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

75-76. Admitted.

77-78. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

79-82. Admitted.

83. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of this paragraph and as such they are Denied.

83-88. Admitted, except for the substitution of parties as authorized by this honorable Court's order of December 18, 2017.

89. Admitted.

90. Admitted, except for the substitution of parties as authorized by this honorable Court's order of December 18, 2017.

91. Admitted.

92. The averments of this paragraph constitute a conclusion of law to which no response is required, and as such it is Denied.

93. It is Admitted that the General Assembly has created school districts as its instrumentalities. The remaining averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

94. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

95-98. Admitted.

99. Admitted, except that the averment that "the standards-based education system was the General Assembly's articulation of what an adequate public education system must accomplish" constitutes a conclusion of law for which no response is required and as such it is Denied.

100-103. Admitted.

104. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

105-115. Admitted.

116. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

117-118. Admitted.

119. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

120-128. Admitted.

129. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

130-134. Admitted.

135-140. Admitted.

141-168. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied. Further, the averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

169-248. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

249-253. Admitted.

254-255. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

256-258. Admitted.

259-261. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

262. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

263-268. Admitted.

269. The averments of this paragraph constitute conclusions of law to which no response is required, and as such they are Denied.

270-283. Admitted.

284-286. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these paragraphs and as such they are Denied.

287-289. The averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

290-299. After reasonable inquiry the Board is without knowledge or information sufficient to form a belief as to the truth of the averments of these

paragraphs and as such they are Denied. Further, the averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

300. The Board incorporates by reference its answers set forth in paragraphs 1-299 as if set forth in full.

301. Admitted.

302-306. The averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

307. The Board incorporates by reference its answers set forth in paragraphs 1-306 as if set forth in full.

308-311. The averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

312-324. The averments of these paragraphs constitute conclusions of law to which no response is required, and as such they are Denied.

NEW MATTER

325. The Board has no authority to determine public school funding, allocate public school funds or otherwise provide the remedy which Petitioners seek.

326. The Board, as a Commonwealth agency, is clothed with sovereign immunity from suit such as alleged by Petitioners.

WHEREFORE, Respondent the State Board of Education respectfully requests this honorable Court to dismiss the Petition for Review.

/s/ Thomas A. Blackburn
Thomas A. Blackburn
Attorney I.D. No. 59383
Senior Counsel in Charge
Pennsylvania Department of State
2601 North Third Street
P.O. Box 69523
Harrisburg, PA 17106-9523
(717) 783-7200
Attorney for Respondent

Dated: September 20, 2018

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William Penn S.D. et al.,	:	
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v.	:	No. 587 M.D. 2014
Pennsylvania Dept. of Education et al.,	:	
Respondents	:	

VERIFICATION

I, Karen Farmer White, am the chair of the State Board of Education and am authorized to make this Verification. The statements contained in the attached Answer to Petition for Review are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn verification to authorities.


Karen Farmer White
Karen Farmer White