

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 587 MD 2014

WILLIAM PENN SCHOOL DISTRICT, *et al.*,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF EDUCATION, *et al.*,

Respondents.

**ANSWER AND NEW MATTER OF THE EXECUTIVE
RESPONDENTS TO PETITION FOR REVIEW IN THE NATURE
OF AN ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF**

Governor Tom Wolf (“Governor Wolf”), Secretary of Education Pedro Rivera,¹ and the Pennsylvania Department of Education (“PDE”) (together, the “Executive Respondents”), by and through their undersigned counsel, hereby file this Answer and New Matter of the Executive Respondents to the Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief, and in support thereof aver the following:

¹ Reference to the Secretary of Education is to the Office of the Secretary and not Secretary of Education Pedro Rivera as he has abstained from participation in this matter on the ground that he has previously served as Superintendent of The School District of Lancaster, one of the petitioner school districts in this matter.

INTRODUCTORY STATEMENT

1. These allegations constitute conclusions of law to which no response is required. By way of further answer, this paragraph also calls for the mental impressions, conclusions or opinions of the Executive Respondents respecting the merits of Petitioners' claims, to which no response is required. *See* Pa.R.C.P. 4003.3. Without waiving the foregoing, the Executive Respondents recognize that Governor Wolf has made public education and investing in all Pennsylvania schools a top priority. The importance of public education is underscored by the fact that pre-kindergarten through twelfth grade education accounted for more than 36 percent of the Commonwealth's overall expenditures in the 2016-17, 2017-18, and 2018-19 budgets. Additionally, the line item for basic education funding was the largest single expenditure in the Commonwealth's 2016-17, 2017-18, and 2018-19 budgets. The 2018-19 enacted Commonwealth budget includes \$6,095,079,000 for the 2018-19 Basic Education Funding appropriation. This amount is a \$100,000,000 increase over the 2017-18 appropriation. While the Executive Respondents have made progress by investing hundreds of millions of dollars into Pennsylvania public schools and enacting a fair funding formula that takes into account the needs of the students in their respective districts, the Executive Respondents know more funding is needed to ensure that our system of education is made equal to the promise of our children. In order to fairly and equitably fund all Pennsylvania public schools,

especially those struggling and disadvantaged districts, the General Assembly must work with the Governor to increase overall education funding. In that process, those districts that rely heavily upon, and anticipate, a minimum level of funding resources each year must continue to be assured that they will not suffer funding cuts and will continue to receive funds adequate to provide an appropriate education to all students. By way of further answer, the Executive Respondents incorporate every fact included in the “Executive Respondents’ Statement of Facts” and attached hereto as Exhibit “A” as if the same were set forth fully herein at length.

2. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

3. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. By way of further answer, basic education funding was increased \$824,657,000 from 2007-08 to 2010-11. In 2011-12, the General Assembly reduced total classroom funding by \$860 million. The remaining allegations are conclusions of law to which no response is required.

4. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. By way of further answer, it is denied that the General Assembly modified the PSSAs in 1999.

5. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

6. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. It is denied that achieving proficiency on the Keystone Exams was a graduation requirement beginning in 2017. Since 2014, the General Assembly enacted legislation to delay the use of Keystone Exams as a statewide graduation requirement. Moreover, most recently through Act 39 of 2018, the General Assembly delayed the use of the Keystone Exams as a statewide graduation requirement until the 2020-21 school year. By way of further answer, for the 2013-14 Keystone Exams, statewide:

- 64% of students scored Proficient or Advanced in Algebra;
- 54.3% of students scored Proficient or Advanced in Biology; and
- 74.1% of students scored Proficient or Advanced in Literature.

These figures represent students' best scores to date at the end of Grade 11 for 2013-2014.

7. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. By way of further answer, in 2011-12, total local revenue was 59.82% and total state revenue was 33.54% and, in 2016-17, total local revenue was 57.15% and total state revenue was 34.38%.

8. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. By way of further answer, in 2012-13, Newport School District was number 1 in total education expenditures per student at \$28,418.82. Mount Carmel Area SD was number 500 at \$9,803.01. In 2016-17, Kutztown Area School District was number 1 at \$37,824.58 and Shamokin Area School District was number 500 at \$12,020.43.

9. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

10. Admitted.

11. Admitted in part. It is admitted that, in 2012-13, combined state and local funding for Panther Valley was \$12,022 per student and that combined state and local funding for Lower Merion was \$26,700 per student. It is further admitted that the costing-out study showed Panther Valley needed \$13,427 per student based on 2005-06 costs. As to the remaining allegations, the Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

12. - 13. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

JURISDICTION

14. These allegations constitute conclusions of law to which no response is required.

PARTIES

A. Petitioners

15. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

1. *The School District Petitioners*

16. These allegations are conclusions of law to which no response is required.

17. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, the William Penn School District served an estimated population of 42,116. The remaining allegations are admitted.

18. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, the Panther Valley School District served an estimated population of 12,605. The remaining allegations are admitted.

19. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, The School District of Lancaster served an estimated population of 74,885. In the 2013-14 school year, 80.91% of students

received either a free or reduced-price lunch. The remaining allegations are admitted.

20. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, the Greater Johnstown School District served an estimated population of 27,676. In the 2013-14 school year, 82.06% of students received either a free or reduced-price lunch. The remaining allegations are admitted.

21. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, the Wilkes-Barre Area School District served an estimated population of 59,879. The remaining allegations are admitted.

22. Admitted in part; denied in part as stated. With regard to Petitioners' allegations concerning the 2010 Census, the Shenandoah Valley School District served an estimated population of 7,943. The remaining allegations are admitted.

2. *The Individual Petitioners*

23. – 24. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

25. Admitted in part; denied in part as stated. There were 425 students at Ardmore, 15.29% of students required special education services, and 11.73% were English Language Learners. The remaining allegations are admitted.

26. – 28. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

29. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

30. Admitted in part; denied in part as stated. By way of further answer, in 2012-13, 49.22% of students were proficient in Math and 51.16% were proficient in Reading. The remaining allegations are admitted.

31. – 33. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

34. Admitted in part; denied in part as stated. By way of further answer, as of 2014, 11.43% of students received special education services. The remaining allegations are admitted.

35. – 36. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

37. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

38. Admitted in part; denied in part as stated. With regard to the specific allegations as to S.A., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and

therefore, solely on that basis, said allegations are denied. By way of further answer, 33.33% of students at Spring Garden were proficient in Math, and 36.31% were proficient in Reading.

39. These allegations constitute conclusions of law to which no response is required.

40. – 41. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

42. Admitted in part; denied in part as stated. With regard to the specific allegations as to E.T., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, there were 852 students enrolled in grades K-8 at Commodore John Barry School, where 95.89% of students were economically disadvantaged and 6.92% received special education services during the timeframe referenced in the Petition.

43. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

44. – 45. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and

therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

46. Admitted in part; denied in part as stated. With regard to the specific allegations as to E.T., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, in 2012-13, 20.99% of students at Barry were proficient in Math and 21.90% were proficient in Reading.

47. These allegations constitute conclusions of law to which no response is required.

48. – 49. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

50. Admitted in part; denied in part as stated. With regard to the specific allegations as to A.M., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, there were 572 students enrolled in K-5 at King Elementary School, where 93.18% of students were economically disadvantaged, 15.03% required special education services, and 22.73% were English Language Learners during the timeframe referenced in the Petition.

51. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

52. – 53. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by

reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

54. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

55. Admitted in part; denied in part as stated. With regard to the specific allegations as to A.M., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, in 2012-13, 49.06% of students at King were proficient in Math and 33.02% were proficient in Reading.

56. These allegations constitute conclusions of law to which no response is required.

57. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

58. Admitted in part; denied in part as stated. With regard to the specific allegations as to C.M., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer,

83.29% of students at West Side Elementary School are economically disadvantaged.

59. Admitted in part; denied in part as stated. With regard to the specific allegations as to C.M., the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of those allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, in 2012-13, 48.60% of students at West Side were proficient in Math and 44.69% were proficient in Reading.

60. – 64. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

65. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

66. These allegations constitute conclusions of law to which no response is required.

67. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

68. Admitted in part; denied in part as stated. By way of further answer, in 2012-13, 68.78% of students at E.L. Meyers JHSH were economically disadvantaged, 19.47% received special education services, 8.78% were English Language Learners, 45.43% were proficient in Math, and 53.75% were proficient in Reading.

69. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

70. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in

2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

71. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

72. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by

reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

73. These allegations constitute conclusions of law to which no response is required.

74. Paragraph 74 contains a definition that is for convenience of reference only and, therefore, no response is necessary.

3. *The Petitioner Entities*

75. Admitted, upon information and belief.

76. – 77. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

78. These allegations constitute conclusions of law to which no response is required.

79. – 82. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

83. These allegations constitute conclusions of law to which no response is required.

B. Respondents

84. These allegations constitute conclusions of law to which no response is required.

85. Admitted in part; denied in part as stated. The Executive Respondents admit that the mission statement of PDE is as follows:

The mission of the Department of Education is to ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens. Further, the Department seeks to establish a culture that is committed to improving opportunities throughout the commonwealth by ensuring that technical support, resources, and optimal learning environments are available for all students, whether children or adults.

Regarding the address for PDE, it is admitted that it is as alleged, except with respect to the zip code which is 17101.

86. - 87. These allegations are not directed to the Executive Respondents and therefore no response is required.

88. The allegations concerning the Governor (except for the location of the Governor's office in the State Capitol, which is admitted) constitute conclusions of law to which no response is required. Further, as noted previously, Thomas W. Corbett is no longer the Governor of Pennsylvania. By way of further answer, the

Executive Respondents recognize that Governor Wolf has made public education and investing in all Pennsylvania schools a top priority. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

89. These allegations are not directed to the Executive Respondents and, therefore, no response is required.

90. The allegations concerning the Secretary of Education (except for the location of the Secretary's office which is admitted except for the zip code) constitute conclusions of law to which no response is required. Further, as noted previously, Carolyn Dumaresq is no longer the Acting Secretary of Education. Pedro Rivera is the Secretary of Education.

GENERAL ALLEGATIONS

A. Petitioners' Claim that the Pennsylvania Constitution Establishes Education as a Fundamental Right and Guarantees Equal Access Thereto.

91. – 94. These allegations constitute conclusions of law to which no response is required.

B. Petitioners' Claim that Respondents Have Adopted Measurable Standards Defining What Constitutes an Adequate Education.

95. Denied as stated. By way of further answer, in January 1999, the State Board of Education adopted regulations requiring school districts to align local curriculum, instruction and assessments with academic standards set forth in 22 Pa.

Code Chapter 4 established by the same regulations. Specifically, the State Board of Education adopted academic standards for Reading, Writing, Speaking and Listening, and Mathematics simultaneously with the adoption of its Chapter 4 regulations in 1999. Chapter 4, which replaced 22 Pa. Code Chapters 3, 5, and 6 (relating to student testing; curriculum; and vocational-technical education) provided single and comprehensive regulations focused on academic standards.

96. Inasmuch as these allegations concern written standards, the writings speak for themselves and characterizations thereof are denied.

97. Inasmuch as these allegations concern written standards, the writings speak for themselves and characterizations thereof are denied. By way of further answer, since 2014, the General Assembly enacted legislation to delay the use of Keystone Exams as a statewide graduation requirement. Most recently, through Act 39 of 2018, the General Assembly delayed the use of the Keystone Exams as a statewide graduation requirement until the 2020-21 school year.

1. Petitioners' Claim Concerning the Adoption of Statewide Academic Standards

98. – 100. These allegations constitute conclusions of law to which no response is required.

101. Admitted. By way of further answer, additional standards were adopted by the State Board of Education from 2002 to 2006 in the following subjects: Science and Technology, History, Health/Safety and Physical Education, Government,

Family and Consumer Science, Environment and Ecology, Economics, Civics and Government, Career Education and Work, Arts and Humanities.

102.– 103. Admitted.

104.– 106. These allegations constitute conclusions of law to which no response is required.

2. Petitioners’ Claim Concerning the Adoption of Statewide Academic Assessments

107.– 109. These allegations constitute conclusions of law to which no response is required.

110. Denied as stated. By way of further answer, the Pennsylvania System School Assessment is a standards-based, criterion-referenced assessment which provides students, parents, educators and citizens with an understanding of student and school performance related to the attainment of proficiency of the academic standards (PA Core Standards for ELA and Mathematics and the Academic Standards for Science, Technology and Engineering Education). These standards in English Language Arts, Mathematics, and Science and Technology identify what a student should know and be able to do at varying grade levels. Every Pennsylvania student in grades 3 through 8 is assessed in English Language Arts and Math. Every Pennsylvania student in grades 4 and 8 is assessed in Science. In compliance with 22 Pa. Code § 4.51(a)(4), the State Board of Education approved “specific criteria for advanced, proficient, basic and below basic levels of performance.”

111. These allegations constitute conclusions of law to which no response is required. By way of further answer, since 2014, the General Assembly enacted legislation to delay the use of Keystone Exams as a statewide graduation requirement. Most recently, through Act 39 of 2018, the General Assembly delayed the use of the Keystone Exams as a statewide graduation requirement until the 2020-21 school year.

112. Admitted in part; denied in part as stated. It is admitted that the Keystone Exams are composed of multiple choice and constructed-response questions and are administered three times a year. Students receive a performance level of advanced, proficient, basic, or below basic based upon students' scaled score. If a student does not achieve a proficient level, the student may retake the exam. The performance level is not based upon the student's raw points total.

113.– 114. These allegations constitute conclusions of law to which no response is required. By way of further answer, since 2014, the General Assembly enacted legislation to delay the use of Keystone Exams as a statewide graduation requirement. Most recently, through Act 39 of 2018, the General Assembly delayed the use of the Keystone Exams as a statewide graduation requirement until the 2020-21 school year.

115. These allegations constitute conclusions of law to which no response is required. By way of further answer, as part of the School Performance Profile,

individual schools within a district receive a building-level school that is based, in part, on student assessment data. The School Performance Profile is no longer linked to Pennsylvania's Federal Accountability System.

C. Petitioners' Claim that Respondents Have Adopted Other Statewide Regulations Defining the Elements of an Adequate Education.

116.– 119. These allegations constitute conclusions of law to which no response is required.

D. Petitioners' Claim that Respondents Have Calculated the Cost of Providing an Adequate Education.

120.– 121. Admitted.

122.– 124. Admitted, upon information and belief.

125.– 129. Inasmuch as these allegations concern the APA's study, the writing speaks for itself and characterizations thereof are denied.

E. Petitioners' Claim that, in 2008, Respondents Adopted a New Funding Formula in Response to the Costing-Out Study.

130.– 132. These allegations constitute conclusions of law to which no response is required.

133. Admitted.

134. Denied as stated. By way of further answer, basic education funding increased an additional \$299,944,000 in 2009-10 and an additional \$250,000,000 in 2010-11. The Commonwealth substituted \$1.7 billion in federal funds from 2009-10 and 2010-11. The Commonwealth substituted federal funds for \$492.6 million

in state revenues for basic education. Except as otherwise noted in this Answer, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of the allegations and therefore, solely on that basis, said allegations are denied.

F. Petitioners' Claim that, in 2011, Respondents Abandoned the Funding Formula and Drastically Cut Education Spending.

135. Admitted.

136. These allegations constitute conclusions of law to which no response is required.

137.– 140. Admitted.

141. These allegations constitute conclusions of law to which no response is required.

142. Inasmuch as these allegations concern the Pennsylvania Budget and Policy Center's report, the writing speaks for itself and characterizations thereof are denied. With regard to the remaining allegations contained in this paragraph, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

G. Petitioners' Claim that Respondents Have Limited the Ability of School Districts to Raise Enough Local Revenue to Provide an Adequate Education to All Students.

143. These allegations constitute conclusions of law to which no response is required.

144. Admitted.

H. Petitioners' Claim that Subsequent Budgets Failed to Restore the 2011 Cuts to Education Spending.

145. These allegations constitute conclusions of law to which no response is required.

146.– 148. Admitted.

149. Denied as stated. By way of further answer, in 2010-11, total PSERS contributions were approximately \$651 million. However, school district contributions are the amount after subtracting the Commonwealth share. In 2010-11, the school district share was approximately \$296 million. In 2012-13, total PSERS contributions were approximately \$1.3 billion. The school district share was \$603 million.

150. These allegations constitute conclusions of law to which no response is required. With regard to what a Commission member stated, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

151. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

152. Admitted in part. It is admitted only that the cited numerical figures are accurate. The remaining allegations constitute conclusions of law to which no response is required.

I. Petitioners' Claim that Respondents Are Not Providing Sufficient Funds to Maintain a Thorough and Efficient System of Public Education.

1. *Petitioners' Claim that Student Performance on State Assessments Indicates That Pennsylvania Students Are Not Receiving an Adequate Education.*

153. Inasmuch as Petitioners have not defined the "statewide data" to which they refer, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

154. The 2012-13 Keystone Exam Results are contained in documents which speak for themselves and characterizations thereof are denied. By way of further answer, the 2012-13 statewide results were as follows: 35.7% Basic or Below Basic in Algebra; 24.6% Basic or Below Basic in Literature; and 54.5% Basic or Below Basic in Biology.

155. Since 2014, the General Assembly has enacted legislation to delay the use of Keystone Exams as a statewide graduation requirement. Most recently,

through Act 39 of 2018, the General Assembly delayed the use of the Keystone Exams as a statewide graduation requirement until the 2020-21 school year.

156. The 2012-13 Keystone Exam Results are contained in documents which speak for themselves and characterizations thereof are denied. With regard to the remaining allegations contained in this paragraph, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

157. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. By way of further answer, as Petitioners have not defined what they mean by “poor” student performance on PSSA exams, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

158. Denied as stated. PDE established intermediate goals for the percentage of a district’s students who should score proficient or above, as set forth on pages 31 and 32 of the Pennsylvania Consolidated State Application Accountability Workbook (Revised August 3, 2012), of 81% in Reading and 78% in Math. With regard to the remaining allegations contained in this paragraph, after

reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

159.– 160. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

161. These allegations constitute conclusions of law to which no response is required.

162.– 163. Inasmuch as these allegations concern testing data, the documents speak for themselves and characterizations thereof are denied.

164. Inasmuch as these allegations concern a study, the document speaks for itself and characterizations thereof are denied.

165. Inasmuch as these allegations concern testing data, the documents speak for themselves and characterizations thereof are denied.

166. Inasmuch as these allegations concern the 2012-13 Keystone Exam Results, the documents speak for themselves and characterizations thereof are denied. By way of further answer, the 2012-13 statewide testing data are as follow:

- A. William Penn – 54.5% of students scored Basic (“B”) or Below Basic (“BB”) in Math; 54.2% B or BB in Reading;

- B. Panther Valley – 36.4% of students scored B or BB in Math; 38.8% B or BB in Reading;
- C. Lancaster – 41.2% of students scored B or BB in Math; 52.2% B or BB in Reading;
- D. Greater Johnstown – 46.8% of students scored B or BB in Math; 51% B or BB in Reading;
- E. Wilkes-Barre – 44.8% of students scored B or BB in Math; 48.5% B or BB in Reading;
- F. Shenandoah – 37.1% of students scored B or BB in Math; 43.8% B or BB in Reading; and
- G. Philadelphia - 52.9% of students scored B or BB in Math; 57.6% B or BB in Reading.

167. Inasmuch as these allegations concern testing data, the documents speak for themselves and characterizations thereof are denied.

168. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

2. Petitioners' Claim that School Districts With Significant Funding Gaps Have Dramatically Reduced or Eliminated Education Programs and Services Necessary to Provide an Adequate Education.

169. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

170. – 171. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

172. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

a. Petitioners Allege Insufficient and Undertrained Staff

173. – 198. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

199. These allegations constitute conclusions of law to which no response is required.

200. – 201. Inasmuch as these allegations concern statements from written materials, the documents speak for themselves and characterizations thereof are denied.

202. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

b. Petitioners Allege Inadequate Educational Programs

203. – 229. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

c. Petitioners Allege Insufficient Materials, Equipment and Facilities

230. – 246. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing

teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

4. Petitioners' Claim that PARSS Members and Other Districts Have Also Eliminated Programs and Services Necessary to Enable Students to Meet Proficiency Standards.

247. – 248. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. The Executive Respondents, however, recognize that, as a result of educational funding cuts in 2011-12 referenced in Paragraph 3 above, each school district has had to make individualized decisions about addressing these funding cuts, including, *inter alia*, eliminating or curtailing educational, vocational and enrichment programs; reducing teaching, library or counseling staff; and reducing budgets for instructional materials, equipment and facilities. The Executive Respondents also incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

5. Petitioners' Claim that the General Assembly Has Failed to Adequately Support Pre-Kindergarten Education.

249. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

250. Admitted.

251. Inasmuch as these allegations concern written materials, the documents speak for themselves and characterizations thereof are denied.

252. These allegations constitute conclusions of law to which no response is required.

253. Inasmuch as these allegations concern written materials, the documents speak for themselves and characterizations thereof are denied.

254.– 255. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

256. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied. By way of further answer, according to the Office of Child Development and Early Learning Program Reach and Risk Assessment State Fiscal Year 2013-14 report:

- 10,009 children were served in School District pre-kindergarten programs;

- 12,131 children were served by Pennsylvania Pre-Kindergarten Counts;
- 32,872 children were served in Head Start (state and federal);
- Total: 55,012 children were served in 2013-14; and
- 51 percent of three and four-year olds statewide are served in publicly-funded quality early care and education settings that include Parent-Child Home Program, Parents as Teachers, Head Start State and Federal, Pennsylvania Pre-Kindergarten Counts, School Based Pre-Kindergarten, Early Intervention Preschool, and Keystone STARS.

Of all state investments, the highest percentage of preschoolers are being reached through the Keystone STARS program. This program provides service to an estimated 20 percent of children ages three and four.

257.– 258. Admitted.

259. Admitted. By way of further answer, PDE is committed to ensuring that all children begin school ready, and are ready to learn and succeed in their schooling careers, as lifelong learners and productive citizens. Research confirms what most parents already know; all children can tap into their innate potential to learn when they receive high-quality instruction that takes into consideration what we know about brain development and how young children learn. Early childhood

education is a proven strategy that ensures a child's readiness for school and school success. Additionally, Governor Wolf has fought to increase funding for Pre-K Counts and HSSAP. In the 2018-19 budget, there is \$192,284,000 for Pre-K Counts, which has increased almost \$100 million with 10,000 more children are being served since 2014-15. For HSSAP, there is \$59,178,000, which has increased by \$20 million with 1,300 additional children being served since 2014-15.

260. – 261. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

J. Petitioners' Claim that Respondents Have Adopted a Funding Arrangement That Fails to Provide Children With an Equal Opportunity to Obtain an Adequate Education.

262. These allegations constitute conclusions of law to which no response is required.

263. Admitted.

264. Admitted in part; denied in part as stated. By way of further answer, six states (Connecticut, Illinois, Missouri, Nebraska, Nevada, and South Dakota) contributed smaller percentages of state funds to fund public education. The remaining allegations contained in this paragraph are admitted.

265. Admitted in part; denied in part as stated. By way of further answer, the aid ratio reflects the relative wealth per student in the district. The remaining allegations contained in this paragraph are admitted.

266. Admitted in part; denied in part as stated. By way of further answer, Shenandoah's market value/personal income aid ratio was 0.8221. While 2012 data is used to calculate 2014-15 aid ratios, the aid ratios stated in this paragraph were for 2014-15. The remaining allegations contained in this paragraph are admitted.

267. Admitted.

268. Admitted in part; denied in part as stated. By way of further answer, Wilkes-Barre's MV/PI aid ratio was 0.6503 and Philadelphia's MV/PI aid ratio was 0.7376. The remaining allegations contained in this paragraph are admitted.

269. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. The Executive Respondents are without sufficient knowledge or information to form a belief as to the truth or falsity of these allegations and therefore, solely on that basis, said allegations are denied.

270.– 271. These allegations constitute conclusions of law to which no response is required.

272. Admitted.

273. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, William Penn raised \$43,863,112.49. The remaining allegations contained in this paragraph are admitted.

274. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Panther Valley raised \$10,127,966.54. The remaining allegations contained in this paragraph are admitted.

275. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Lancaster raised \$75,769,418.92. The remaining allegations contained in this paragraph are admitted.

276. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Greater Johnstown raised \$10,878,660.00. The remaining allegations contained in this paragraph are admitted.

277. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Wilkes-Barre raised \$56,460,475.57. The remaining allegations contained in this paragraph are admitted.

278. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non -tax-related revenue is included, Shenandoah raised \$4,698,235.60. The remaining allegations contained in this paragraph are admitted.

279. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Philadelphia raised \$978,210,405.69. The remaining allegations contained in this paragraph are admitted.

280. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Lower Merion raised \$182,740,838.75. The remaining allegations contained in this paragraph are admitted.

281. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related revenue. If other non-tax-related revenue is included, Radnor raised \$71,564,883.58. The remaining allegations contained in this paragraph are admitted.

282. Admitted in part; denied in part as stated. Revenue cited as “locally” raised in this paragraph only includes taxes and not other local sources-related

revenue. If other non-tax-related revenue is included, Tredyffrin-Easttown raised \$95,680,450.39. The remaining allegations contained in this paragraph are admitted.

283. Admitted in part; denied in part as stated. *See* the Executive Respondents' answers to Paragraphs 273-282 above which are incorporated by reference as if set forth fully herein at length.

284. Inasmuch as Petitioners have not identified the year(s) during which they claim these figures, and to the extent Petitioners have not specified how they define spending per pupil, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on those bases, said allegations are denied.

285.– 286. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. Without waiving the above, after reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

287. After reasonable investigation, the Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied. Inasmuch

as these allegations concern a written report, the document speaks for itself and characterizations thereof are denied.

288. The Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length. After reasonable investigation, Executive Respondents are without sufficient knowledge or information to form a belief as to the truth of these allegations and therefore, solely on that basis, said allegations are denied.

289. These allegations constitute conclusions of law to which no response is required.

K. Petitioners' Claim that Respondents Have Adopted a Funding Arrangement That Is Irrational and Wholly Divorced from the Actual Costs of Providing an Adequate Education.

290. These allegations constitute conclusions of law to which no response is required. Further, the Executive Respondents incorporate by reference their Answer to the Petition at Paragraph 1 above as if set forth fully herein at length.

291.– 292. These allegations constitute conclusions of law to which no response is required.

293. These allegations constitute conclusions of law to which no response is required. By way of further answer, with regard to districts with higher numbers of ELL students, in 2013-14, there was a \$14,650,000 English Language Learner High Incidence Supplement and \$4 million for charter school extraordinary enrollment

supplement as part of basic education funding. Philadelphia did not receive either of these supplements and their ELL concentration was 5.94% and charter population was 25.61%. Furthermore, in 2013-14, there was an overall \$122.5 million increase in basic education funding and \$30.26 million were the supplements (24.7%) that only went to 21 school districts. The remaining allegations contained in this paragraph are admitted.

294. These allegations constitute conclusions of law to which no response is required.

295. Admitted in part; denied in part as stated. These allegations are generally admitted, except Lower Merion raised \$23,709 per student locally.

296. These allegations constitute conclusions of law to which no response is required.

297. Admitted.

298.– 299. These allegations constitute conclusions of law to which no response is required.

**FIRST CAUSE OF ACTION FOR THE ALLEGED VIOLATION OF THE
PENNSYLVANIA CONSTITUTION'S EDUCATION CLAUSE**

300. Denied. The Executive Respondents incorporate by reference their responses to Paragraphs 1 through 299, above.

301.– 306. These allegations constitute conclusions of law to which no response is required.

**SECOND CAUSE OF ACTION FOR THE ALLEGED VIOLATION OF
THE PENNSYLVANIA CONSTITUTION'S EQUAL PROTECTION
CLAUSE**

307. The Executive Respondents incorporate by reference their responses to Paragraphs 1 through 306, above.

308.– 311. These allegations constitute conclusions of law to which no response is required.

PETITIONERS' PRAYER FOR RELIEF

312.– 324. These allegations constitute conclusions of law to which no response is required.

NEW MATTER

1. To the extent Petitioners seek to compel or mandate affirmative action by, or damages against, the Executive Respondents, Petitioners' claims against the Executive Respondents are barred by the doctrine of sovereign immunity. *See* 1. Pa.C.S. § 2310.

NOTICE TO PLEAD

Petitioners are hereby notified to file a written response to the New Matter within thirty (30) days from service hereof or a judgment may be entered against you.

Respectfully submitted,

BLANK ROME LLP

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*Counsel for the
Executive Respondents*

Date: September 19, 2018

Exhibit “A”

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIAM PENN SCHOOL DISTRICT, <i>et al.</i>,	:	
	:	
Petitioners,	:	No. 587 MD 2014
	:	
v.	:	
	:	
PENNSYLVANIA DEPARTMENT OF EDUCATION, <i>et al.</i>,	:	
	:	
Respondents.	:	

EXECUTIVE RESPONDENTS’ STATEMENT OF FACTS

Governor Tom Wolf (“Governor Wolf”), the Secretary of Education for the Commonwealth of Pennsylvania¹ and the Pennsylvania Department of Education (collectively, the “Executive Respondents”) provide this Statement of Facts in lieu of protracted discovery with Petitioners; in further answer to Respondent Speaker of the House Michael C. Turzai’s (“Speaker Turzai”) First Set of Interrogatories Directed to Governor Wolf and First Set of Requests for Production to Governor Wolf and to Speaker Turzai’s First Set of Interrogatories Directed to the Department of Education of the Commonwealth of Pennsylvania and First Set of Requests for Production to the Department of Education of the Commonwealth of Pennsylvania; and in acknowledgement of the Court’s May 7, 2018 Order providing for the parties’ limited discovery relating to the nature of the constitutional rights at issue and the corresponding level of judicial scrutiny to be applied to this matter.

In support thereof, the Executive Respondents state as follows:

¹ Reference to the Secretary of Education is to the Office of the Secretary and not Secretary of Education Pedro A. Rivera as he has abstained from participation in this matter on the ground that he has previously served as Superintendent of The School District of Lancaster, one of the petitioner school districts in this matter.

1. The Pennsylvania Code describes the purpose of public education as one of “prepar[ing] students for adult life by attending to their intellectual and developmental needs and challenging them to achieve at their highest level possible.” 22 Pa. Code § 4.11. Further, the Pennsylvania Code states that, “[i]n conjunction with families and other community institutions, public education prepares students to become self-directed, life-long learners and responsible, involved citizens.” *Id.*

2. Public education in Pennsylvania is designed to help prepare students to gain the skills, knowledge, and experiences needed to contribute to workforce needs. Pennsylvania has in place Career Education and Work Standards, which identify what students should know and be able to do at Grades 3, 5, 8 and 11 in four specific areas: career awareness and preparation, career acquisition (getting a job); career retention and advancement; and entrepreneurship. 22 Pa. Code § 4.12; 22 Pa. Code Ch. 4, Appendix E.

3. Public education is important to Pennsylvania and a top priority for Executive Respondents.

4. It is important that all students are getting equitable access to a quality public education. Pennsylvania must ensure every student is able to succeed, no matter the circumstance. It is imperative that students in Pennsylvania have access to a fair education system regardless of their zip code. The Executive Respondents have steadfastly fought to address education funding in Pennsylvania, especially for struggling and disadvantaged districts.

5. While the Executive Respondents have made progress to invest hundreds of millions more in our schools and in enacting a fair funding formula that takes into account the needs of students in their districts, we know more must be done.

6. Pennsylvania must improve equity in education and provide all students with the tools and skills they will need after graduation.

7. Education and investing in all Pennsylvania schools is a top priority for the Executive Respondents. In order to achieve this goal, the Executive Respondents have committed to increasing funding for public education at all levels and have made sustained investments in education.

8. On April 25, 2016, Governor Wolf and the General Assembly adopted a new basic education funding formula for the 2015-16 fiscal year. 72 P.S. § 1722-L(17.1). This formula was made permanent in Act 35 of 2016, P.L. 252, No. 35 (June 1, 2016), 24 P.S. § 25-2502.53 (“Act 35”).

9. As a result, since the 2014-15 school year, additional funding totaling \$538,700,000 was processed through the student-weighted basic education funding formula. Further, an additional \$102,850,000 was appropriated for special education funding since the 2013-14 school year. This is above and beyond the amount appropriated in the prior school years.

10. Act 35 was enacted to establish a fair, equitable formula for allocating state funds to Pennsylvania schools to ensure that all students get a quality public education.

11. The inequities in the Pennsylvania school funding system can be addressed by increasing funding through the fair funding formula.

12. The Executive Respondents have restored education funding that had been cut during the previous administration, ensured students are ready for college or to start their career, and supported high-quality Pre-K programs so young children can start developing strong reading skills needed for success in school and beyond.

13. The Executive Respondents have increased the budget in an effort to improve education opportunities for every student across the state, regardless of zip code.

14. The Commonwealth appropriated funds for public education as follows:

- a. In 2016-17, the Commonwealth appropriated \$11,193,987,000 for the support of public schools.
- b. In 2017-18, the Commonwealth appropriated \$11,603,307,000 for the support of public schools.²
- c. In 2018-19, the Commonwealth appropriated \$12,063,510,000 for the support of public schools.³
- d. In 2016-17, the Commonwealth appropriated \$5,895,079,000 in basic education funding.
- e. In 2017-18, the Commonwealth appropriated \$5,995,079,000 in basic education funding.⁴

² <https://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Education%20Budget/Pages/default.aspx>.

(Total of following line item appropriations: basic education funding, Ready to Learn block grant, Pre-K Counts, Head Start Supplemental Assistance, mobile science and math education programs, teacher professional development, adult and family literacy, career and technical education, career and technical education equipment grants, authority rentals and sinking fund requirements, pupil transportation, nonpublic and charter school pupil transportation, special education, early intervention, tuition for orphans and children placed in private homes, payment in lieu of taxes, education of migrant laborers' children, Pennsylvania chartered schools for the deaf and blind, approved private schools, school food services, school employees' social security, school employees' retirement.)

³ <https://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Education%20Budget/Pages/default.aspx>

⁴ <https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2018-19%20Enacted%20Budget/2018-19%20Web%20Track%20-%20ENACTED.pdf>

f. In 2018-19, the Commonwealth appropriated \$6,095,079,000 in basic education funding, which is a \$100 million increase over the 2017-18 appropriation.⁵

15. Pre-kindergarten through twelfth grade education accounted for the Commonwealth's overall expenditures as follows:

- a. Pre-kindergarten through twelfth grade education accounted for 36.19 percent of the Commonwealth's overall expenditures in the 2016-17 budget.⁶
- b. Pre-kindergarten through twelfth grade education accounted for 36.88 percent of the Commonwealth's overall expenditures in the 2017-18 budget.⁷
- c. Pre-kindergarten through twelfth grade education accounted for 37.73 percent of the Commonwealth's overall expenditures in the 2018-19 budget.⁸

16. The line item for basic education funding was the largest single expenditure in the Commonwealth's 2016-17, 2017-18, and 2018-19 budgets.⁹

17. The mission of the Pennsylvania Department of Education ("PDE") is to ensure that every learner has access to a world-class education system that academically prepares children and adults to succeed as productive citizens. Further, PDE seeks to establish a culture that is committed to improving opportunities throughout the Commonwealth by ensuring that

⁵ <https://www.education.pa.gov/Teachers%20-%20Administrators/School%20Finances/Education%20Budget/Pages/default.aspx>

⁶ http://budgetfiles.pa.gov/budget2016e/GBD_2016e.html

⁷ http://budgetfiles.pa.gov/budget2017e/GBD_2017e.html

⁸ http://budgetfiles.pa.gov/budget2018e/GBD_2018e.html

⁹ <https://www.budget.pa.gov/PublicationsAndReports/CommonwealthBudget/Documents/2018-19%20Enacted%20Budget/2018-19%20Web%20Track%20-%20ENACTED.pdf>

technical support, resources, and optimal learning environments are available for all students, whether children or adults. PDE oversees 500 public school districts, more than 170 public charter schools, public cyber charter schools, Career and Technology Centers/Area Vocational Technical schools, Intermediate Units, the education of youth in State Juvenile Correctional Institutions, Head Starts and publicly funded preschools, and community colleges. PDE also oversees policies related to public, academic, and school libraries, and the State Library of Pennsylvania.¹⁰

18. The State Board of Education adopted Common Core Standards in July 2010. Since that time, the decision was made to craft a set of Pennsylvania Core Standards (“PA Core Standards”) tailored to meet state specific needs in English Language Arts and Mathematics, as well as for Language Arts and Literacy in History/Social Studies and Science/Technical Subjects. A group of Pennsylvania educators crafted the PA Core Standards, which mirror the academic rigor of the Common Core State Standards, are attainable for students, practicable for teachers and districts, and reflect the organization and design of the PA Academic Standards. In compliance with Title 22, Chapter 4 of the Pennsylvania Code (22 Pa. Code § 4.11), PA’s Core Standards are a set of rigorous, high-quality academic expectations in English Language Arts and mathematics that all students should master by the end of each grade level. The PA Core Standards are robust and relevant to the real world and reflect the knowledge and skills our young people need to succeed in life after high school, in both postsecondary education and a globally competitive workforce.¹¹

¹⁰ <https://www.education.pa.gov/Pages/Mission.aspx>

¹¹ <http://static.pdesas.org/content/documents/PA%20Core%20Standards%20Fact%20Sheet%20for%20Leadership%2012.1.2013.pdf>

19. Graduating from high school is a critical milestone for students and is a minimum requirement for most current and projected employment opportunities. Although earning a high school diploma is imperative, research suggests that individuals with postsecondary education and training are less vulnerable to layoffs. Individuals with greater educational attainment are also more likely to earn higher wages.¹²

20. Every child in Pennsylvania needs the skills necessary to compete for a good job.

21. Improving educational opportunities for every student is necessary to ensure that Pennsylvania has a workforce ready for the 21st Century.

22. Public education is critical to developing a workforce in Pennsylvania that meets the needs of the 21st Century economy. For example, national and regional data suggest that Pennsylvania needs to have a STEM-ready workforce to compete in the global economy. It is estimated that by 2020 employers will have need an additional 1.6 million workers skilled in STEM. In Pennsylvania, there will be approximately 300,000 jobs that require STEM skills or content knowledge by 2018; over the next 10 years, 71 percent of new jobs will require computer science skills. These projected opportunities – coupled with an existing 21,000 unfilled computer science and software development jobs in Pennsylvania – and anticipated retirements from the engineering field – make the imperative for ensuring pathways for equitable access to STEM experiences even more urgent. The number of current and projected job openings in computer

¹² *Pennsylvania Department of Education, Every Student Succeeds Act, Pennsylvania Consolidated State Plan*, 101 (September 18, 2017), <https://www.education.pa.gov/Documents/K-12/ESSA/Resources/Pa%20ESSA%20Consolidated%20State%20Plan.pdf> (citing Anthony P. Carnevale et al., *Recovery: Job Growth and Education Requirements through 2020*, Georgetown University Center on Education and the Workforce, June 2013, https://cew.georgetown.edu/wp-content/uploads/2014/11/Recovery2020.FR_Web_.pdf.)

science and IT dwarfs the number of graduates from postsecondary computer science programs.¹³

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Date: September 4, 2018

¹³ *Id.* at 88-89.

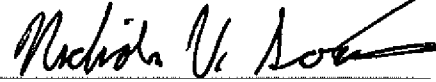
VERIFICATION

I, David W. Volkman, am the Executive Deputy Secretary for the Pennsylvania Department of Education and am authorized to make this Verification. The statements contained in the attached Executive Respondents' Statement of Facts are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.


DAVID W. VOLKMAN

VERIFICATION

I, Nicholas V. Soccio, am Staff Secretary for Governor Tom Wolf and am authorized to make this Verification. The statements contained in the attached Answer and New Matter of the Executive Respondents to Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Nicholas V. Soccio
Staff Secretary

VERIFICATION

I, David W. Volkman, am the Executive Deputy Secretary for the Pennsylvania Department of Education and am authorized to make this Verification. The statements contained in the attached Answer and New Matter of the Executive Respondents to Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief are true and correct to the best of my knowledge, information and belief. I understand that this Verification is made subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.


DAVID W. VOLKMAN

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of September, 2018, I caused the foregoing Answer and New Matter of the Executive Respondents to Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief to be served on the following counsel of record pursuant to the requirements of

Pa.R.A.P. 121:

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