

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**WILLIAM PENN SCHOOL DISTRICT *et al.*,
Petitioners**

v.

**PENNSYLVANIA DEPARTMENT OF EDUCATION *et al.*,
Respondents**

NO. 587 M.D. 2014

**PROPOSED
FINDINGS OF FACT AND CONCLUSIONS OF LAW
OF RESPONDENT
STATE BOARD OF EDUCATION**

**Petition for Review in the Nature of an
Action for Declaratory and Injunctive Relief**

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Date Filed: May 2, 2022

In accordance with this Court’s February 22, 2022, order setting forth a post-trial schedule, as amended by its April 18, 2022 order, the State Board of Education hereby submits the following proposed findings of fact and conclusions of law.

PROPOSED FINDINGS OF FACT

1. The power vested in the State Board of Education through the Public School Code is broad, and the Board looks at educational programming from pre-K all the way up through adult and post-secondary education. (N.T. 4172)
2. The Board has responsibility for establishing academic standards and assessments, as well as working with issues related to educator certification. (N.T. 4172)
3. By statute, the Board is organized into two 10-member councils – Council of Basic Education and Council of Higher Education. (N.T. 4172)
4. The Board chair does not serve on either Council. (N.T. 4172-73)
5. Of the 21 members of the Board, four are the majority and minority chairs of the House and Senate education committees and the others are nominated by the Governor and confirmed by the Senate. (N.T. 4173-74)
6. The Secretary of Education serves as CEO of the Board and can speak on any matters before the Board but cannot vote. (N.T. 4184-85)
7. There are currently 12 sets of academic standards adopted by the Board through regulation, in title 22 of the Pennsylvania Code chapter 4 covering content

including mathematics, English language arts, science and technology, environment and ecology, social studies, and others. (N.T. 4175-76)

8. The Board has standards for teacher certification promulgated through regulations at chapter 49. (N.T. 4176)

9. Pennsylvania's reputation in providing rigorous preparation for educators is well-received. (N.T. 4406)

10. The Board promulgated state assessment requirements in its Chapter 4 regulations. (N.T. 4181)

11. There are currently state assessments in English language arts, mathematics and science. (N.T. 4181)

12. The Board is also responsible for developing a master plan for basic education and a master plan for higher education. (N.T. 4183)

13. The purpose of the master plans is to provide guidance to the Governor and the General Assembly, as well as to institutions that are funded by state appropriations. (N.T. 4184)

14. The Board is charged by statute to develop and adopt a master plan for basic education which shall be for the guidance of the Governor, the General Assembly, and all public school entities. The plan, which must be updated on a ten year cycle, is to consider and make recommendations in specific areas and in any other areas which the Board deems appropriate. (N.T. 4415-16, exhibit PX-00035 at 3)

15. The Board engages in a constant review and appraisal of education in the Commonwealth. The Board's evaluation takes into account such matters as educational objectives, alternative organizational patterns, alternative programs of study, and the operating efficiency of the education system. (N.T. 4413, 4416, exhibit LR-02237 at 2)

16. The purpose of the academic standards set by the Board is to establish rigorous academic standards and assessments, applicable only to the public schools in this Commonwealth, to facilitate improvement of student achievement, and to provide parents and communities a measure by which school performance can be determined. (N.T. 4186)

17. The Board formulates these standards with input from teams of content experts, directs the Department of Education to facilitate a process of selecting content experts to participate in sessions to develop the standards, and then present these proposals to the Board for its consideration and then stakeholder input through the regulatory review process such as roundtable discussions across the state. (N.T. 4186-87)

18. As regulations, these standards must for the statutory regulatory review process, which includes being published for public comment for another opportunity for interested parties before final consideration by the Board and subsequent review by House and Senate education committees and the Independent Regulatory Review

Commission. (N.T. 4187-88)

19. The process for the development of academic standards provides an opportunity for interested citizens to have their voice heard during the typically two-year period of moving from draft standards to final promulgation. (N.T. 4189)

20. The state academic standards are responsive to what the Board has set as priorities for students to know and be able to demonstrate by the end of the grade level. (N.T. 4189)

21. The Board most recently revised the Pennsylvania Core Standards in English language arts and mathematics, which had been initially adopted in 2010. (N.T. 4190)

22. These Pennsylvania Core Standards are specific to Pennsylvania and were developed by Pennsylvania educators. (N.T. 4191)

23. Pennsylvania school districts are required to follow the academic standards adopted by the Board, which should serve as the basis to which the district's curriculum is aligned. (N.T. 4191-92)

24. The Board's regulations in chapter 4 set forth an expectation that the Board will conduct periodic reviews of academic standards on a 3-year cycle though it is currently considering a revision to extend that time from 3 to 5 to 10 years. (N.T. 4192)

25. The purpose of reviewing and revising academic standards is to ensure that

they continue to meet the academic needs of our students and to ensure that they continue to put students in a position where they will be ready to enter the workforce and post-secondary education and support the economic needs of the Commonwealth. (N.T. 4192-93)

26. In addition to having those 4 members of the General Assembly sit on the Board, as part of the regulatory review process any amendment to the Board's regulations is submitted to the education committees of both legislative chambers for comment on proposed and/ may approve or disapprove the final rulemaking. (N.T. 4193-94)

27. The academic standards are now specific to each grade level. (N.T. 4195)

28. The Pennsylvania Core Standards adopted following the course of normal review ensured that there was a voice for Pennsylvania stakeholders in the mathematics and English language arts standards, that the standards reflect 21st century skills to prepare students in the Commonwealth to meet the rigor expected of post-secondary education and the workforce, and that they were supported also by leaders from business who felt students would benefit by being challenged in critical thinking, complex problem-solving, effective communication, applying math in real world settings and having focus on informational text as well as fiction text. (N.T. 4196-97, 4315-16)

29. The Pennsylvania Core Standards focused in part on workforce needs of the

Commonwealth to ensure that the Commonwealth maintains its economic competitiveness. (N.T. 4198)

30. The Pennsylvania 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 post-secondary education and a globally competitive workforce. (N.T. 4198-99, exhibit PX-00037 at 1)

31. The Board focused on fulfilling the college and career readiness standard in developing the Pennsylvania Core Standards. (N.T. 4203)

32. In accordance with House Resolution 338 of 2013, the Board believed that the Pennsylvania Core Standards were rigorous and has not taken a position that they should be less rigorous. (N.T. 4205)

33. The Board intended that the academic standards be rigorous and effective for Pennsylvania students. (N.T. 4205-06)

34. The 2014 Pennsylvania Core Standards were more rigorous than previous standards. (N.T. 4316)

35. The academic standards are not designed to be theoretical or aspirational, but are to define what students should know and be able to do at the end of the applicable grade levels. (N.T. 4206)

36. The Board believes that academic standards should be rigorous to meet the needs of the Commonwealth in supporting workforce and economic

competitiveness, as well as preparing students for entry into communities post-graduation. (N.T. 4206-07, 4317-18)

37. The academic standards that have been set for kindergarten through 5th grade provide students with a foundation to engage in learning progressions to prepare them for that more rigorous work in the upper grade levels. (N.T. 4208-09)

38. Technology is included in the academic standards because it is integrated into so many aspects of daily life, as well as the way that people interact in multiple fields in the workforce. (N.T. 4210-11)

39. The skills reflected in the English language arts academic standards for 11th and 12th graders relate to students' ability to engage in critical thinking and complex problem-solving by citing evidence to support their arguments. (N.T. 4212, exhibit PX-02201 at 60)

40. A school district's curriculum should be aligned to the academic standards. (N.T. 4212)

41. The Board considers implementation needs – such as whether students have the supports they need to attain the academic standards – as part of the development during regulatory review. (N.T. 4212)

42. Whether students had the supports they need to meet these rigorous standards has been a concern of the Board, and in developing standards it tries to balance the needs of those employing or further educating graduates with the ability of the school

districts to effectuate the standards. (N.T. 4212-13)

43. Prior to 2010 the Board oversaw a costing-out study to determine the cost to educate students; it has not since been asked to conduct a similar analysis. (N.T. 4213)

44. State academic assessments – PSSA and Keystone exams – are aligned to the academic standards. (N.T. 4214)

45. The Department of Education is delegated by the Board to cause the assessments to be developed, and then cut scores and performance level descriptors for those assessments are presented to the Board for approval. (N.T. 4215)

46. The performance descriptors and cut scores adopted by the Board were aligned to the standards. (N.T. 4316)

47. The performance descriptors and cut scores would have been written to match the rigor of the new standards and would be reflective of aligned assessments. (N.T. 4316-17)

48. The new cut scores and performance descriptors themselves are not more rigorous but are aligned to the more rigorous new standards. (N.T. 4317)

49. As provided in Chapter 4, the purpose of the state assessment system is to provide information on whether school programs are effective in helping students attain proficiency under the state academic standards and to provide information to educators in refining school programs to ensure that students are able to meet the

standards. (N.T. 4216)

50. As defined in Chapter 4, the Board administers the Pennsylvania System of School Assessment in English language arts and mathematics for grades 3 through 8 and science for grades 4 and 8 and the Keystone exams in algebra I, biology and literature at the high school level. (N.T. 4217)

51. The assessments are standard-based and criterion references and aligned to the academic standards. (N.T. 4217)

52. The Board believes that the PSSAs are an accurate reliable measure for determining whether students are meeting academic standards set by the Board, as it is the measure developed by the Board to make that determination. (N.T. 4218)

53. The Board also believes that the Keystone exams are a reliable measure, as the Board determined it will be used for that purpose. (N.T. 4218)

54. The Keystone exams were adopted by the Board with the intention to ensure that students are adequately prepared for college and career without remedial support. (N.T. 4220)

55. The state assessments are designed to ensure that students are prepared to enter the workforce and post-secondary education. (N.T. 4221)

56. The Board approved the performance level descriptors because it believes that they accurately describe each performance level. (N.T. 4223-24)

57. The Board approved the cut scores because it believes that they are accurate

and reliable. (N.T. 4225-26)

58. The Board establishes graduation requirements in its Chapter 4 regulations, and there are additional graduation requirements in the Public School Code. (N.T. 4229)

59. There are multiple pathways for meeting the state graduation requirements. (N.T. 4229)

60. All students are required to take the Keystone exams. (N.T. 4232)

61. The Board's Council of Higher Education adopted a goal for the Commonwealth to reach 60% post-secondary attainment by 2025, based upon the percentage of Pennsylvania residents aged 25 to 65 holding a post-secondary degree or certificate. (N.T. 4234, 4238, 4242, exhibit PX-03339)

62. The Board last adopted a Master Plan for Basic Education in 2018. (N.T. 4254)

63. The Board is responsible for producing and adopting a master plan for basic education, which would be fulfilling one of the responsibilities that is delegated to the Board under the Public School Code. (N.T. 4256)

64. Apart from its regulatory responsibilities, the Board believes that it has a role in identifying the most pressing educational issues of the Commonwealth and in articulating possible solutions. (N.T. 4255, exhibit PX-00035 at 3)

65. All individuals must be provided with the opportunity to achieve. As the

Board quoted in its last master plan, the Constitution of the Commonwealth calls for a “thorough and efficient” education system. This tenet reminds us that every student, regardless of ability or circumstance, is assured the opportunity for a comprehensive education and that our system of education must be of the highest caliber. To do less is to fail in our Constitutional duty and to beggar the future of this Commonwealth (N.T. 4257-58, exhibit PX-00035 at 4)

66. The Master Plan recognizes that educational programs are not static and that technology is an essential part of learning in today’s 21st century environment. (N.T. 4258-59)

67. According to the Master Plan, all students must be provided with the opportunity to achieve college, career and civic success. (N.T. 4259)

68. Pennsylvania high school graduates must be knowledgeable and informed, able to analyze incomplete information and judge differing opinions in order to make the informed decisions necessary in a democracy. 21st century technology brings myriad sources of information and perspectives to our citizens, so our education system must prepare them to make sound judgments. (N.T. 4259-60, exhibit PX-00035 at 3)

69. The Board believes that all children across the Commonwealth should receive a comprehensive education that includes those components regardless of wealth, as it does not differentiate between the circumstances in which students find

themselves. (N.T. 4260)

70. In its Master Plan the Board has stated that local control of education must be respected but not serve as an abdication of responsibility. Our Commonwealth has a long and proud tradition of effective local control of education. State-level decisions must lay out the goals and standards of education, and must provide the adequate resources for the local level to achieve them. We cannot lay out a vision of high achievement without providing the means and mechanisms to achieve it. (N.T. 4261, exhibit PX-00035 at 5)

71. These means and mechanisms to achieve high achievement would be the resources to effectively implement the comprehensive education that is expected by the Board to be provided to all students in the Commonwealth. (N.T. 4262)

72. The Board is mindful of the tough funding choices to be made at the state and local levels. However, we cannot let gains in graduation rates and increases in student achievement wither due to insufficient funding or inefficient spending. We must provide adequate funding and must have skilled administrators in every district and school that wring the most value out of every dollar. In this way, we will have teachers in every classroom that are equipped and empowered to reach and teach every student, every day. (N.T. 4262, exhibit PX-00035 at 4)

73. The Board is looking to ensure that districts have the means necessary to effectuate a comprehensive education which is reflected in the academic standards

that are adopted by the Board and that, in doing so, spending is done in an efficient manner. (N.T. 4262-63)

74. Components required to effectuate that comprehensive education include classroom instruction (inclusive of a curriculum aligned to state academic standards), textbooks and resources to support delivery of that curriculum, and educators who are qualified to deliver instruction, as well as sufficient staff, technology appropriate for a 21st century education (which is integrated throughout so many aspects of society), and facilities. (N.T. 4263-64)

75. The Master Plan does not recommend reducing the rigor of academic standards. (N.T. 4265)

76. The Master Plan does not recommend any fundamental changes to the PSSAs or Keystone exams. (N.T. 4265)

77. The Board encourages a discussion of “adequacy” as it relates to school funding, followed by the provision of adequate resources for efficient management at state and local levels. (N.T. 4266, 4419, exhibit PX-00035 at 9)

78. The Board encourages a periodic review of the costing-out study and an analysis of the suitability of the revised funding formula for possible update as economic conditions and demographic factors change. (N.T. 4267-68, 4419-20, exhibit PX-00035 at 9)

79. The Board encourages a review of existing mandates and laws with a view

towards relief as a cost-savings measure at both the state and local levels. (N.T. 4420, exhibit PX-00035 at 9)

80. The Board has not engaged in any review of whether school districts have the resources they need to meet Pennsylvania state standards. (N.T. 4271)

81. The Board has not conducted any studies with regard to disparities in academic outcome between well-funded and low-funded school districts. (N.T. 4271)

82. Because the Public School Code identifies that the Board's master plans are – in part – to provide guidance to the General Assembly, the Board has shared its 2018 Master Plan for Basic Education with the General Assembly. (N.T. 4272)

83. The Board has not been asked to replicate the costing-out study such as in a more current format with more updated data. (N.T. 4276-77)

CONCLUSIONS OF LAW

The State Board of Education takes no position on the merits of Petitioners' claims for relief and thus is proposing no conclusions of law.

Respectfully submitted,

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