

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

WILLIAM PENN SCHOOL DISTRICT,
et al.,

Petitioners

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION, et al.,

Respondents

NO. 587 MD 2014

**EXECUTIVE BRANCH RESPONDENTS’
PRELIMINARY OBJECTIONS TO THE PETITION FOR REVIEW**

Respondents Governor Thomas W. Corbett, Acting Secretary of Education Carolyn Dumaresq, the Pennsylvania Department of Education and the Pennsylvania State Board of Education (the “Executive Branch Respondents”), by their attorneys, hereby preliminarily object to the petition for review as follows:

DEMURRER

The petition for review is legally insufficient for the following reasons:

Non-justiciable questions.

1. The Constitution of Pennsylvania provides, in Article 3, Section 14, “[t]he General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.”

2. As the petition for review makes clear, the General Assembly has in fact enacted statutes that provide for the establishment, operation and funding of a system of public education in the Commonwealth.

3. The amount of funding for education, how those funds are distributed, and all other matters relating to educational policy are committed exclusively to the discretion of the Legislature.

4. The claims presented in the petition for review thus present questions that are non-justiciable.

Failure to state a claim.

5. The statutory scheme establishing and providing for public education is rationally related to legitimate governmental objectives.

Sovereign immunity.

6. Insofar as the petition for review seeks to impose a mandatory, as opposed to a prohibitory, injunction, the claims for relief are barred by sovereign immunity.

Separation of powers.

7. Insofar as the petition for review seeks to compel action by the General Assembly, and to subject the Legislature to the ongoing supervision of the Court, the claims for relief are barred by the separation of powers.

WHEREFORE, the Executive Branch Respondents' preliminary objections should be sustained and the Court should dismiss the petition for review.

Respectfully submitted,

**KATHLEEN G. KANE
Attorney General**

By: *s/ Lucy E. Fritz*

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Date: December 10, 2014

Counsel for Executive Branch Respondents

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ORDER

AND NOW, this _____ day of _____, 2015, upon consideration of the Preliminary Objections submitted by Respondents Governor Thomas W. Corbett, Acting Secretary of Education Carolyn Dumaesq, the Pennsylvania Department of Education and the Pennsylvania State Board of Education, and any opposition thereto, it is hereby **ORDERED** that the Preliminary Objections are **SUSTAINED** and that the Petition for Review in the Nature of an Action for Declaratory and Injunctive Relief is hereby **DISMISSED with prejudice**.

J.

CERTIFICATE OF SERVICE

I, Lucy E. Fritz, Deputy Attorney General, hereby certify that on December 10, 2014, I caused to be served the foregoing **EXECUTIVE BRANCH RESPONDENTS' PRELIMINARY OBJECTIONS TO THE PETITION FOR REVIEW**, by first-class mail, addressed to the following:

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