

COMMONWEALTH COURT OF PENNSYLVANIA

Pennsylvania State Education Association v. Public School
Employees' Retirement Board

No. 199 M.D. 2021 (Pa. Cmwlth. July 21 2022) (Commonwealth Court of Pennsylvania 2022) · No. No. 199
M.D. 2021 · Decided July 21, 2022

SUMMARY

The Commonwealth Court of Pennsylvania considered preliminary objections to the Pennsylvania State Education Association’s amended petition seeking declarations concerning the Public School Employees’ Retirement Board’s implementation of statutory withdrawal-liability provisions. The court held that PSEA lacked standing because the alleged harms arose from school districts’ outsourcing or charter-conversion decisions rather than directly from the Board’s conduct, and because the statutory provision did not force PSEA to choose between equally unappealing options. The court sustained the standing-related preliminary objections, dismissed the amended petition, and dismissed the remaining objections as moot.

CASE DETAILS

COURT	Commonwealth Court of Pennsylvania
WRITING FOR THE COURT	Renée Cohn Jubelirer, President Judge; Anne E. Covey, Judge; Mary Hannah Leavitt, Senior Judge
JURISDICTION	Pennsylvania
DECIDED	July 21, 2022
DOCKET	No. 199 M.D. 2021
DISPOSITION	dismissed
PROCEDURAL POSTURE	PSEA filed an amended petition for review seeking declaratory relief. PSERB and intervenor Pennsylvania School Boards Association filed preliminary objections challenging standing and, alternatively, ripeness, private right of action, and failure to state a claim. The Commonwealth Court sustained the preliminary objections directed to standing and dismissed the amended petition.
STANDARD OF REVIEW	On preliminary objections, the court accepts all well-pleaded factual allegations and reasonable inferences as true, but is not bound by legal conclusions, unwarranted inferences, argumentative allegations, or opinions. Preliminary objections should be sustained only where it

	appears with certainty that the law will not permit recovery, with doubts resolved against sustaining the objections. Standing is reviewed as a threshold justiciability issue.
PRECEDENTIAL VALUE	Unreported memorandum opinion; nonprecedential
PARTIES	Pennsylvania State Education Association v. Public School Employees' Retirement Board

TOPICS

standing declaratory judgment administrative law statutory interpretation civil procedure

PRACTICE AREAS

administrative law civil procedure employment law remedies

QUESTIONS PRESENTED

1. Whether PSEA had standing under the Declaratory Judgments Act to challenge PSERB's inaction or anticipated application of Public School Employees' Retirement Code section 8327.1.
2. Whether PSEA had associational standing based on alleged effects on its members' pension benefits, employment, and collective-bargaining interests.

HOLDINGS

1. PSEA lacked standing because it failed to establish a substantial, direct, and immediate interest in PSERB's application or nonapplication of section 8327.1. The alleged harms—outsourcing, charter-school conversions, impaired bargaining, and possible loss of membership—were caused by or dependent on school-district decisions and were too remote or speculative to establish the required causal connection.
2. PSEA lacked associational standing because it did not show that any member had a substantial, direct, and immediate injury caused by PSERB's challenged conduct.

KEY QUOTATIONS

“A party is “aggrieved” for standing purposes when that party’s interest in the outcome of the case “is substantial, direct, and immediate.”” (at 8-9)

“However, declaratory judgment is not to resolve remote questions or to aid a party in a different transaction.” (at 14)

FACTUAL BACKGROUND

Pennsylvania amended the Public School Employees' Retirement Code in 2019 to impose withdrawal liability on nonparticipating employers that cease covered operations or cease contributing for some or all employees while continuing covered operations. PSERB later adopted a resolution directing staff to study the statute's application

to outsourcing and providing that no action would be taken regarding withdrawal liability for outsourcing until further policy or legislation. PSEA alleged that uncertainty about withdrawal liability impaired unions' ability to bargain over outsourcing and could affect contemplated conversion of Chester Upland public schools to charter schools. PSEA did not allege that it, its members, or its local affiliates were themselves subject to withdrawal liability or that pension benefits were at risk.

PROCEDURAL HISTORY

PSEA filed a petition for review and later an amended petition seeking declarations that PSERB's March 5, 2021 resolution concerning Public School Employees' Retirement Code section 8327.1 was ultra vires and that the statute applied to certain outsourcing and charter-school-conversion scenarios. PSERB and PSBA filed preliminary objections. The court sustained the objections based on lack of standing, dismissed the amended petition on that basis, and dismissed the remaining objections as moot.

DISPOSITION

dismissed

CASES CITED

- Eagleview Corporate Center Association v. Citadel Federal Credit Union, 150 A.3d 1024, 1029 (Pa. Cmwlth. 2016)
- Geisinger Clinic v. Di Cuccio, 606 A.2d 509, 519 (Pa. Super. 1992)
- County Commissioners Association of Pennsylvania v. Dinges, 935 A.2d 926, 931 (Pa. Cmwlth. 2007)
- Larry Pitt & Associates, P.C. v. Butler, 785 A.2d 1092, 1096 (Pa. Cmwlth. 2001)
- Firearm Owners Against Crime v. Papenfuse, 261 A.3d 467, 481, 487, 490 (Pa. 2021)
- Stuckley v. Zoning Hearing Board of Newtown Township, 79 A.3d 510, 516 (Pa. 2013)
- City of Philadelphia v. Commonwealth, 838 A.2d 566, 577 (Pa. 2003)
- In re Application of Biester, 409 A.2d 848, 851 (Pa. 1979)
- Office of Governor v. Donahue, 98 A.3d 1223, 1229 (Pa. 2014)
- Robinson Township, Washington County v. Commonwealth, 83 A.3d 901, 917, 924 (Pa. 2013)
- Cozen O'Connor v. City of Philadelphia Board of Ethics, 13 A.3d 464, 465 (Pa. 2011)
- Yocum v. Pennsylvania Gaming Control Board, 161 A.3d 228 (Pa. 2017)
- Petition of Capital Bank & Trust, 6 A.2d 790, 792 (Pa. 1939)
- Americans for Fair Treatment, Inc. v. Philadelphia Federation of Teachers, 150 A.3d 528, 533-34 (Pa. Cmwlth. 2016)
- Armstead v. Zoning Board of Adjustment of City of Philadelphia, 115 A.3d 390, 399-400 (Pa. Cmwlth. 2015)
- Concerned Taxpayers of Allegheny County v. Commonwealth, 382 A.2d 490, 494 (Pa. Cmwlth. 1978)
- Duncan v. Muzyn, 885 F.3d 422, 428 (6th Cir. 2018)

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