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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH V. KRAWCHUK and ROBERTA L. KRAWCHUK,

Petitioners,

v.

JOSHUA D. SHAPIRO, Governor of Pennsylvania, in his official capacity; KIM L. WARD, in her official capacity as President Pro-Tempore of the Pennsylvania Senate; and JOANNA E. McCLINTON, in her official capacity as Speaker of the Pennsylvania House of Representatives,

Respondents.

: No. 441 MD 2026

PETITIONERS' ANSWER TO THE PRELIMINARY OBJECTIONS OF RESPONDENT KIM L. WARD, PRESIDENT PRO TEMPORE OF THE PENNSYLVANIA SENATE

Petitioners Kenneth V. Krawchuk and Roberta L. Krawchuk, proceeding pro se, answer the Preliminary Objections of Respondent Kim L. Ward, President Pro Tempore of the Pennsylvania Senate, in her official capacity (the "President Pro Tempore"), pursuant to Pa.R.A.P. 1516(b) and 1517 and Pa.R.C.P. 1028 and 1029. This Answer is directed solely to the President Pro Tempore's Preliminary Objections. Petitioners have separately answered the Preliminary Objections of Respondent Speaker McClinton and are separately answering the Preliminary Objections of Respondent Governor Shapiro.

On November 11, 2026, Petitioners filed an Application for Leave to File an Amended Petition for Review that narrows this case to a single claim under Article III, Section 14 of the Pennsylvania Constitution, seeking a declaration of continuing constitutional duty and, alternatively and only to the extent legally available, general compliance relief that leaves the selection of constitutionally adequate means to the political branches and does not prescribe any particular legislative program, together with costs only. Until leave is granted and an amended petition is accepted for filing, the original Petition remains the operative pleading. Statements below describing the proposed Amended Petition are not a claim that amendment has already occurred.

INTRODUCTION

The President Pro Tempore's Preliminary Objections are not numbered. For convenience, Petitioners refer to them in the order presented: (1) lack of standing (¶¶ 2–5); (2) ripeness (¶¶ 6–8); (3) non-justiciability (¶¶ 9–12); (4) separation of powers (¶¶ 13–15); (5) sovereign immunity (¶¶ 16–18); (6) failure to join necessary parties (¶¶ 19–21); (7) failure to state a claim for relief (¶¶ 22–28); and (8) insufficient specificity (¶ 29).

Several of these objections are directed to requests that Petitioners have proposed to withdraw: injunctions directing the enactment of particular legislation, the dissolution of school boards and sale of school buildings described in Exhibit C, and enforcement of "orders" in William Penn School District v. Pennsylvania Department of Education, 294 A.3d 537 (Pa. Commw. Ct. 2023) ("William Penn (2023)"). The proposed Amended Petition seeks declarations under Article III, Section 14 and, alternatively and only to the extent legally available, general compliance relief that does not prescribe any particular legislative program. Exhibits C–E would remain only as nonbinding illustrations. Am. Pet. ¶¶ 5, 18, 24 & Prayer for Relief.

The remaining objections—standing, ripeness, justiciability, and the demurrer on the merits—are answered fully below. The President Pro Tempore concedes that, under William Penn School District v. Pennsylvania Department of Education, 170 A.3d 414 (Pa. 2017) ("William Penn II"), Education Clause claims "can potentially set forth a justiciable cause of action." Ward POs ¶ 10. Her merits demurrer asks the Court to decide, on the pleadings and in part on materials outside them, that the Commonwealth's system of public education is constitutionally adequate as a matter of law. Neither William Penn II nor William Penn (2023) supports deciding that question without a record.

ANSWER TO NUMBERED PARAGRAPHS

Pursuant to Pa.R.C.P. 1029, Petitioners respond as follows. Legal conclusions are denied except as expressly admitted. Headings in the President Pro Tempore's Preliminary Objections are answered with the paragraphs to which they relate.

1. Admitted that Petitioners are Kenneth V. Krawchuk and his wife, Roberta L. Krawchuk. Admitted that Petitioner Kenneth V. Krawchuk was the Libertarian candidate for Governor of Pennsylvania in 2026. It was in the course of that campaign—traveling the Commonwealth and studying Pennsylvania's system of public education and its results—that he learned of the deficiencies alleged in the Petition, and it is because of what he learned that Petitioners brought this action to enforce Article III, Section 14. Mr. Krawchuk's candidacy does not diminish his standing as a taxpayer and grandparent, and the merits of a constitutional claim do not depend on who raises it. Denied that the Petition is a legal pleading in name only, and denied that it fails to plead a cognizable legal claim. Admitted that the original Petition described particular policy approaches; under the proposed Amended Petition those approaches are

retained only as nonbinding illustrations. Am. Pet. ¶ 18. The reference to briefing requires no response; Petitioners will brief the objections as the Court directs.

2. Admitted that Petitioners do not challenge a particular statute and that they challenge whether the Commonwealth's system of public education complies with Article III, Section 14. Denied that Petitioners lack standing. Denied that Petitioners, under the proposed Amended Petition, seek to enforce the order in William Penn (2023). Legal conclusion as to the procedural vehicle for a standing objection; admitted that standing may be raised under Pa.R.C.P. 1028(a)(5).

3. Legal conclusion as to the standard; admitted that traditional standing requires a substantial, direct, and immediate interest. In re Application of Biester, 409 A.2d 848, 851 (Pa. 1979). Admitted that Petition ¶ 1 alleges that Petitioners' three children and two grandchildren are former or current Pennsylvania public-school students, and that the Petition as filed does not identify them, their schools, or when they attended, or allege that any of them received a constitutionally deficient education. By way of further answer, the proposed Amended Petition avers that Petitioners' grandson I.C.L. is sixteen years of age and attends school in the Centennial School District in Bucks County, and avers the ongoing denial to I.C.L. and to all of Pennsylvania's children of the constitutional right to a thorough education. Am. Pet. ¶¶ 1, 19. Denied that the Petition must be dismissed.

4. Legal conclusion. Admitted that Petitioners assert standing as taxpayers; that taxpayer standing is a limited exception to traditional standing; and that the Supreme Court has stated the five requirements quoted, Stilp v. Commonwealth, General Assembly, 940 A.2d 1227, 1233 (Pa. 2007). Admitted that students attending public schools are directly affected by the system of public education, and that students, parents, and school districts have litigated Education Clause

claims. William Penn (2023). Denied that those facts, or the existence of the legislative process, defeat taxpayer standing as a matter of law on the pleadings. See Argument III.

5. Admitted that original Petition ¶¶ 17 and 25 and Prayer D sought a declaration that Respondents remain out of compliance with orders in William Penn (2023), and that Petitioners were not parties to that case. Petitioners are seeking leave to withdraw Count III and Prayer D. Under the proposed Amended Petition, Petitioners do not seek to enforce any judgment in William Penn (2023) and cite that decision only as persuasive authority regarding the meaning of Article III, Section 14. Am. Pet. ¶ 15. Petitioners do not dispute, for present purposes, that a judgment determines the rights and obligations of the parties to that case. The remaining averments are legal conclusions to which no response is required.

6. Legal conclusion. Admitted that ripeness reflects the concern whether relevant facts are "sufficiently developed to permit judicial resolution of the dispute." Robinson Twp. v. Commonwealth, 83 A.3d 901, 917 (Pa. 2013). Admitted that Petitioners seek a declaration that the present system of public education fails Article III, Section 14. Admitted that William Penn (2023), decided in 2023, entered declaratory relief concerning Article III, Section 14. Denied that Petitioners' claim raises unripe issues.

7. Admitted that the General Assembly has enacted the appropriation and Fiscal Code acts cited, the terms of which speak for themselves, and Petitioners do not dispute for present purposes that the cited Department of Education web pages report the figures stated. Denied that those matters, which appear nowhere in the Petition, may be considered in ruling on a demurrer. Mobley, 65 A.3d at 1053. Denied that increases in funding render Petitioners' claim unripe. Petitioners aver that additional spending alone has not ensured that students meet standards. Am. Pet. ¶ 13 & Ex. H. Petitioners are without knowledge or information sufficient to form a belief as

to the remaining characterizations of the General Assembly's purposes, which are argument, and therefore deny them.

8. Denied. Petitioners challenge the present and continuing condition of the system, as shown by the most recent reported outcomes. Am. Pet. ¶¶ 10–11, 17, 23. Whether measures adopted by the political branches have cured, or will cure, the constitutional deficiency is a question going to the merits, to be decided on evidence, and not a basis to dismiss the claim as premature.

9. Denied. The proposed Amended Petition does not ask the Court to adopt Petitioners' personal policy preferences; it asks whether the system complies with Article III, Section 14.

10. Admitted that William Penn II held that Education Clause claims can be justiciable. Admitted that Malone v. Hayden, as quoted by the President Pro Tempore, states that courts will not inquire into the reason, wisdom, or expediency of legislative policy with regard to education. Denied that Malone bars a claim that the system fails the constitutional mandate. William Penn II reexamined the prior line of decisions treating such claims as nonjusticiable and found "irreconcilable deficiencies in the rigor, clarity, and consistency of the line of cases that culminated in Marrero II." William Penn II, 170 A.3d 414.

11. Admitted that the original Petition (¶¶ 29–32; Prayer E–H) requested injunctions of the kind described, including the dissolution of local school boards and sale of school buildings described in Exhibit C, a Pennsylvania Scholastic Standards Board, and a universal Education Savings Account program. Petitioners propose to withdraw every one of those requests. Denied as to the proposed Amended Petition, which expressly disclaims them. Am. Pet., Prayer for Relief (final paragraph).

12. Denied as to the proposed Amended Petition. The particular program requests to which this paragraph is directed are proposed to be withdrawn. The remaining Article III, Section 14 claim is within the scope William Penn II recognized. Maurer v. Boardman and Cella v. Davidson, as quoted by the President Pro Tempore, concern judicial review of the wisdom or policy of legislation and the jurisdiction of equity over nonjusticiable matters; Petitioners deny that they render nonjusticiable a claim that the system fails Article III, Section 14. Denied that the Court lacks jurisdiction.

13. Admitted that original Petition ¶ 5 contains the quoted language and that original Petition ¶¶ 29–32 and Prayer E–H sought injunctive relief. The proposed Amended Petition replaces ¶ 5, withdraws those requests, and does not ask the Court to direct the enactment of any particular legislation. Am. Pet. ¶¶ 5, 24.

14. Legal conclusion. Admitted that Article II, Section 1 provides as quoted, and that the quoted passage from Shapp v. Sloan describes legislative power as vested in the General Assembly "subject only to gubernatorial veto and judicial scrutiny as to the constitutionality of enacted legislation." Denied that separation of powers bars a judicial declaration whether the system complies with Article III, Section 14. William Penn II, 170 A.3d 414.

15. To the extent paragraph 15 is directed to requests that the Court direct Respondents or the General Assembly to enact certain legislation, Petitioners propose to withdraw those requests. Denied that the declaratory claim, or the alternative request for general compliance relief sought only to the extent legally available and without prescribing any legislative program, should be dismissed on this ground.

16. Legal conclusion. Admitted that 1 Pa.C.S. § 2310 declares that the Commonwealth and its officials and employees acting within the scope of their duties remain immune from suit

except as the General Assembly shall specifically waive the immunity. Admitted that sovereign immunity bars a permanent injunction compelling affirmative action by Commonwealth officials. Paris, 335 A.3d 1019 (slip op. at 21–24). The decision in Philadelphia Life Ins. Co. v. Commonwealth speaks for itself. Denied that sovereign immunity bars freestanding declaratory relief. Id.

17. Admitted that original Petition ¶¶ 5 and 29–32 and Prayer E–H requested injunctive relief directing the enactment of particular legislation, and that the practical effect of requested relief, not its label, matters. Petitioners propose to withdraw those requests. Denied as to the proposed Amended Petition, whose principal requests are declarations. Am. Pet., Prayer for Relief ¶¶ B–C.

18. Admitted that Petitioners identify no statute specifically waiving sovereign immunity for the mandatory affirmative injunctive relief requested in the original Petition, and Petitioners propose to withdraw those requests. Denied that dismissal of the declaratory claim is required. Petitioners acknowledge that Paris presents a substantial barrier to compelled affirmative relief and request alternative general compliance relief only to the extent legally available.

19. Legal conclusion. Admitted that "[a] party is indispensable when his or her rights are so connected with the claims of the litigants that no decree can be made without impairing those rights," and that failure to join an indispensable party is jurisdictional. William Penn (2023) (slip op. at 606) (quoting Sprague v. Casey, 550 A.2d 184, 189 (Pa. 1988)). The decisions in Van Buskirk and Church of the Lord Jesus Christ speak for themselves.

20. Admitted that original Petition ¶ 30, Prayer E, and Exhibit C described the dissolution of school boards, transfer of school-district assets and liabilities, and sale of school buildings. Denied as to the proposed Amended Petition, which requests no such order and retains Exhibit C

only as a nonbinding illustration. Am. Pet. ¶ 18 & Prayer for Relief (final paragraph). Admitted that Petitioners have not named any school district or other educational institution as a respondent.

21. Denied. The proposed Amended Petition seeks a prospective systemwide declaration and requests no relief against, and no transfer of property or funding from, any school district or other educational institution. This Court rejected a materially similar indispensable-party objection by the President Pro Tempore in William Penn (2023) (slip op. at 605–11). By way of further answer, if the Court were to find an indispensable party absent, the remedy in the first instance is joinder, not dismissal. Pa.R.C.P. 1032(b).

22. Legal conclusion. Admitted that a demurrer tests whether, accepting all well-pleaded facts as true, the pleading states a claim; that the Court need not accept legal conclusions; and that Pennsylvania is a fact-pleading jurisdiction. Pa.R.C.P. 1019(a). Admitted further that a demurrer will not be sustained unless the face of the pleading shows that the law will not permit recovery, and that doubts are resolved against sustaining it. Stone & Edwards, 616 A.2d at 1063.

23. Denied. The Petition and the proposed Amended Petition plead specific facts, supported by exhibits, concerning statewide and school-level assessment outcomes, per-pupil cost, the relationship between spending and performance, and staffing and enrollment trends. Petition ¶¶ 9–14 & Exs. A, B, F, G, H; Am. Pet. ¶¶ 9–14, 22 & Exs. A, B, F, G, H. Admitted that original Petition ¶ 15 contained an averment regarding curriculum standards and oversight; the proposed Amended Petition omits that averment. Denied that the pleaded facts, accepted as true, fail as a matter of law to show a violation of Article III, Section 14.

24. Admitted that the Petition relies substantially on statewide assessment results, including results lower in less wealthy districts, and that William Penn II contains the quoted

words. Denied that Petitioners rely "almost exclusively" on test scores; they also plead cost, spending-versus-performance, and staffing facts. Denied that William Penn II holds that assessment outcomes are irrelevant or legally insufficient. That passage concerns whether the constitutional standard may simply be defined by the statutory standards of the moment; this Court in William Penn (2023) held that the constitutional inquiry "necessarily requires an examination, not just of the inputs, but also the outcomes," and treated the PSSA and Keystone Exams as outcomes that assist that inquiry. William Penn (2023) (slip op. at 707–09). Petitioners do not contend that any particular test-score level is itself the constitutional standard.

25. Admitted that the original Petition and Exhibit B describe increases in public-school staffing, including non-teacher professional and administrative staffing, while enrollment declined, and that Exhibit B states the quoted language. Exhibit B speaks for itself as to the precise percentages. Admitted that William Penn (2023) contains the quoted statement about teachers. William Penn (2023) (slip op. at 690). Denied that Petitioners' reasons are unexplained. Petitioners plead the growth of administrative and non-teacher professional staffing while enrollment declined, together with cost and outcome facts, in support of their averment that the system is not efficient. Am. Pet. ¶¶ 9, 12–14, 22. The quoted statement concerns teachers, not administrative and non-teacher professional staff.

26. Denied. Petitioners do not allege that staffing growth alone violates the Constitution. Staffing and enrollment trends, per-pupil cost, and outcomes together support Petitioners' averment that the present system is neither thorough nor efficient. Am. Pet. ¶ 22. Whether they establish a violation is a question for evidence, not demurrer.

27. Admitted that original Petition ¶ 15 averred that curriculum standards and oversight "lack sufficient statewide consistency and mechanisms to ensure a thorough education." Denied

that original ¶ 15 alleged that Pennsylvania has no curriculum standards. Admitted that the State Board has adopted academic standards and that 22 Pa. Code § 4.12(b) provides that, "[i]n designing educational programs, school entities shall provide for the attainment of the academic standards." By way of further answer, the proposed Amended Petition omits original ¶ 15, and this objection is directed only to the superseded averment. Denied that the State Board web page cited, which is outside the Petition, may be considered in ruling on a demurrer. Mobley, 65 A.3d at 1053.

28. Denied.

29. Admitted that the Petition as filed does not identify Petitioners' children or grandchildren, their schools, or how each was individually affected. Denied that dismissal is required. The proposed Amended Petition identifies Petitioners' grandson I.C.L., his age, and his school district, and avers the ongoing denial to him of the constitutional right to a thorough education. Am. Pet. ¶¶ 1, 19. Consistent with the Case Records Public Access Policy, the minor is identified only by initials. Petitioners also invoke, in the alternative, the taxpayer exception, which does not depend on those family details. Am. Pet. ¶ 1.

ARGUMENT

I. Standard of Review

On preliminary objections, the Court accepts well-pleaded material facts and reasonable inferences, but not unwarranted inferences, legal conclusions, or opinion. Feliciano v. Pa. Dep't of Corr., 250 A.3d 1269, 1274 (Pa. Commw. Ct. 2021). A demurrer will not be sustained unless the face of the petition for review shows that the law will not permit recovery, and any doubts should be resolved against sustaining the demurrer. Stone & Edwards Ins. Agency, Inc. v. Dep't of Ins., 616 A.2d 1060, 1063 (Pa. Commw. Ct. 1992). In ruling on a demurrer, the Court "cannot

consider matters collateral to the complaint, but must limit itself to such matters as appear therein, and an effort to supply facts missing from the objectionable pleading makes the preliminary objection in the nature of a demurrer an impermissible 'speaking demurrer.'" Mobley v. Coleman, 65 A.3d 1048, 1053 (Pa. Commw. Ct. 2013). If an issue of fact is raised, "the court shall consider evidence by depositions or otherwise." Pa.R.C.P. 1028(c)(2).

II. The Pending Application for Leave to Amend

On November 11, 2026, Petitioners filed through PACFile an Application for Leave to File an Amended Petition for Review under Pa.R.A.P. 123 and Pa.R.C.P. 1033(a) and (d), attaching a clean proposed Amended Petition and a Rule 1033(d) comparison copy. That Application is pending. Until leave is granted and the Amended Petition is accepted for filing, the original Petition remains the operative pleading, and statements in this Answer describing the proposed Amended Petition ("Am. Pet.") are not a claim that amendment has already occurred. The President Pro Tempore's Preliminary Objections were served upon Petitioners by first-class mail on October 23, 2026, according to her certificate of service, and this Answer is filed within the time to respond under her notice to plead. Petitioners do not by this Answer assert that any Pa.R.C.P. 1028(c)(1) as-of-course period is open or closed.

If leave is granted, the President Pro Tempore's objections to the superseded original Petition should be disposed of accordingly, and objections to the Amended Petition, if any, would be made by filing new preliminary objections. Pa.R.C.P. 1028(f). Petitioners nonetheless answer every paragraph and every objection on the merits, in the alternative, so that nothing turns on the timing of the Court's ruling on the Application.

III. First Objection — Standing (Ward POs ¶¶ 2–5)

The Petition alleges that Petitioners are Montgomery County taxpayers who pay state and local taxes supporting the public-education system challenged in this action, and attaches their joint 2026 school-tax payment receipt as Exhibit I. It further alleges that their three children and two of their grandchildren currently attend or have attended public schools in Pennsylvania. The proposed Amended Petition adds that their grandson I.C.L. is sixteen years of age and attends school in the Centennial School District, avers the ongoing denial to him of the constitutional right to a thorough education, and invokes, in the alternative and without abandoning those allegations, the taxpayer exception. Am. Pet. ¶¶ 1, 19.

Traditional standing requires a substantial, direct, and immediate interest exceeding the common interest of all citizens in procuring obedience to the law. Biester, 409 A.2d at 851. Alternatively, a taxpayer has standing if: (1) the governmental action would otherwise go unchallenged; (2) those directly and immediately affected by the complained-of matter are beneficially affected and not inclined to challenge the action; (3) judicial relief is appropriate; (4) redress through other channels is unavailable; and (5) no other persons are better situated to assert the claim. Stilp, 940 A.2d at 1233; Consumer Party of Pennsylvania v. Commonwealth, 507 A.2d 323, 329 (Pa. 1986); Pittsburgh Palisades Park, LLC v. Commonwealth, 888 A.2d 655, 660–62 (Pa. 2005). Petitioners bear the burden on each requirement and do not ask the Court to treat public importance as a substitute for any of them.

As to the first requirement, the Supreme Court has explained that taxpayer standing exists so that citizens may "challenge governmental action which would otherwise go unchallenged in the courts because of the standing requirement." Biester, 409 A.2d at 851 n.5. Petitioners acknowledge that William Penn (2023) shows that Education Clause claims can be brought by parties with traditional standing, which limits any claim that such challenges would, as a class,

go unchallenged. They contend that the earlier action does not, as a matter of law, foreclose taxpayer standing in this later action by different petitioners seeking a present declaration of continuing constitutional duty.

As to the second requirement, the expenditures Petitioners challenge are the public funds that support the Commonwealth's system of public education, as reflected in Exhibits B, G, and I. Petitioners contend that the governmental institutions that receive and administer those expenditures are beneficially affected by the expenditures themselves. Consumer Party, 507 A.2d at 329; Biester, 409 A.2d at 852. That is an argument from the governing standard and those exhibits; it is not an allegation of any institution's motive.

As to the third requirement, "the determination of the constitutionality of an act is a function ultimately left to the courts." Consumer Party, 507 A.2d at 329–30. William Penn II confirms that courts may decide whether the system complies with Article III, Section 14, and the President Pro Tempore concedes as much. Ward POs ¶ 10.

As to the fourth requirement, the President Pro Tempore identifies "the legislative process" as an alternative avenue. Ward POs ¶ 4. The possibility of legislative reform is not the same as an available channel for obtaining the judicial declaration Petitioners request, and the legislative process is controlled in part by the Respondents whose compliance is at issue. Consumer Party treated judicial review as appropriate for a constitutional question even though the political process existed. 507 A.2d at 329–30.

As to the fifth requirement, the President Pro Tempore contends that students attending allegedly deficient schools are better situated. Ward POs ¶ 4. Petitioners acknowledge that students, parents, and districts can bring, and have brought, Education Clause claims, and that this requirement is part of Petitioners' burden. The President Pro Tempore relies on Stilp, but

Stilp turned on the fifth requirement because a particular elected official—the Auditor General—was "a far-better situated party" to seek a declaration about that office's own authority, and the discretion to bring that action lay with that official. Stilp, 596 Pa. 62, 74, 940 A.2d 1227. Petitioners acknowledge that Stilp also stated that, beyond asking that official to act, the taxpayer's remedy "like that of all citizens, is at the ballot box." Id. The President Pro Tempore identifies no official or entity charged with asserting the claim presented here. Petitioners contend that the theoretical availability of other plaintiffs does not, as a matter of law on the pleadings, require dismissal. See also Fumo v. City of Philadelphia, 601 Pa. 322, 353, 972 A.2d 487 (Pa. 2009). Because a standing objection under Rule 1028(a)(5) is one that "cannot be determined from facts of record," Pa.R.C.P. 1028(c)(2), note, any disputed facts bearing on these requirements call for evidence, not dismissal. Pa.R.C.P. 1028(c)(2).

Finally, the President Pro Tempore argues that Petitioners cannot enforce the William Penn (2023) judgment. Ward POs ¶ 5. Petitioners agree that they do not seek to do so under the proposed Amended Petition. Am. Pet. ¶ 15. The standing objection should be overruled or, if the Court finds the original pleading incomplete, resolved by permitting the proposed amendment rather than by dismissal with prejudice. Petitioners do not by this Answer purport to resolve ultimate standing on a full factual record.

IV. Second Objection — Ripeness (Ward POs ¶¶ 6–8)

Ripeness addresses whether "relevant facts are not sufficiently developed to permit judicial resolution of the dispute." Robinson Twp., 83 A.3d at 917. Petitioners do not challenge a future or hypothetical event. They allege that the present system of public education, as shown by the most recent reported statewide outcomes, does not provide the thorough and efficient system Article III, Section 14 requires. Am. Pet. ¶¶ 10–11, 17, 23. A claim of a present and

continuing constitutional violation is not premature because the political branches have adopted measures whose effects, according to the President Pro Tempore, "will not be evident immediately." Ward POs ¶ 8.

The ripeness objection also depends on matters outside the Petition—appropriation acts, Fiscal Code amendments, and figures from Department of Education web pages. Ward POs ¶ 7. The Court "cannot consider matters collateral to the complaint" on a demurrer. Mobley, 65 A.3d at 1053. Petitioners do not dispute, for present purposes, that the General Assembly has appropriated the funds described, and the Court may be asked to take notice of public laws. But the inference the President Pro Tempore draws—that increased funding for lower-wealth districts makes it premature to assess whether the system is constitutional—is a factual and merits contention. Petitioners aver that additional spending alone has not ensured that students meet standards. Am. Pet. ¶ 13 & Ex. H. Whether recent measures have cured, or will cure, the deficiency Petitioners allege is a question for evidence. Pa.R.C.P. 1028(c)(2).

Petitioners acknowledge that the Court may weigh the political branches' recent actions in deciding what relief, if any, is appropriate. That is a reason to decide the claim on a record, not to dismiss it as unripe.

V. Third Objection — Non-Justiciability (Ward POs ¶¶ 9–12)

The President Pro Tempore concedes that William Penn II held Education Clause claims justiciable. Ward POs ¶ 10. In William Penn II, the Supreme Court reexamined the line of decisions that had treated such claims as nonjusticiable, found "irreconcilable deficiencies in the rigor, clarity, and consistency of the line of cases that culminated in Marrero II," and agreed "that it is feasible for a court to give meaning and force to the language of a constitutional mandate to furnish education of a specified quality, in this case 'thorough and efficient,' without

trammeling the legislature in derogation of the separation of powers." William Penn II, 170 A.3d 414. Malone, Maurer, and Cella, decided between 1931 and 1939, are quoted by the President Pro Tempore for the proposition that courts do not review the wisdom or policy of legislation. Petitioners do not ask the Court to do so.

The non-justiciability objection is directed to the original requests for injunctions directing the General Assembly to dissolve school boards, sell school buildings, create a standards board, and establish Education Savings Accounts. Ward POs ¶ 11. Petitioners propose to withdraw every one of those requests. The proposed Amended Petition asks whether the system complies with Article III, Section 14, Am. Pet., Prayer for Relief ¶¶ B–C, and, alternatively and only to the extent legally available, for general compliance relief "leaving the selection of constitutionally adequate means to the political branches and without prescribing any particular legislative program." Id. ¶ D. Exhibits C–E are nonbinding illustrations. Am. Pet. ¶ 18. The third objection should be overruled as to the proposed Amended Petition and is moot as to the withdrawn requests.

VI. Fourth Objection — Separation of Powers (Ward POs ¶¶ 13–15)

Article II, Section 1 vests the legislative power in the General Assembly. The passage from Shapp v. Sloan the President Pro Tempore quotes itself recognizes "judicial scrutiny as to the constitutionality" of legislative action. Ward POs ¶ 14. Courts may declare whether the education system complies with Article III, Section 14. William Penn II, 170 A.3d 414. The Supreme Court has also recognized that a court may return a matter to the political branches "with only a broadly-stated mandate to serve as guidance." Id. (slip op. at 70–71). Petitioners' proposed Amended Petition does not ask the Court to direct the enactment of any legislation, Am. Pet. ¶¶ 5, 24, and any alternative general compliance relief is requested only to the extent

legally available, without fixed deadlines, mandatory votes or signatures, or appropriations, and only within each Respondent's official authority. Petitioners recognize that the President Pro Tempore and the Speaker do not, acting alone, enact legislation. Am. Pet. ¶ 5. The fourth objection is moot as to the withdrawn requests and does not require dismissal of the proposed declaration.

VII. Fifth Objection — Sovereign Immunity (Ward POs ¶¶ 16–18)

Petitioners admit that 1 Pa.C.S. § 2310 reaffirms sovereign immunity except as specifically waived, and that Paris bars permanent injunctions compelling affirmative action by Commonwealth officials. Paris, 335 A.3d 1019 (slip op. at 21–24). Paris does not bar freestanding declarations of rights. Id. The constitutional arguments presented in Paris were waived, see id. (slip op. at 5 n.11), so Paris did not decide an Education Clause exception to immunity, and Petitioners do not claim that it guarantees any injunctive remedy. Petitioners propose to withdraw the mandatory requests the President Pro Tempore identifies and to proceed on declarations. Alternatively, and only to the extent legally available, they request general compliance relief that leaves the selection of means to the political branches. 42 Pa.C.S. § 7538 permits a later application, on reasonable notice, for supplemental relief based on a declaratory judgment, but it is not an independent waiver of sovereign immunity. The fifth objection should not result in dismissal of the proposed declarations, and whether alternative relief is available need not be decided to resolve these objections.

VIII. Sixth Objection — Failure to Join Necessary Parties (Ward POs ¶¶ 19–21)

This objection rests on the original request for an order dissolving school boards, transferring school-district assets, and selling school buildings. Ward POs ¶ 20. Petitioners propose to withdraw that request; Exhibit C would remain only as an illustration. Am. Pet. ¶ 18.

The proposed Amended Petition seeks a prospective systemwide declaration and requests nothing from any school district.

In William Penn (2023), the President Pro Tempore argued that hundreds of non-party school districts and other educational institutions were indispensable because relief would affect the funding system on which they rely. This Court rejected that argument, distinguishing Oas v. Commonwealth, 301 A.2d 93 (Pa. Commw. Ct. 1973), where a decree would have invalidated grants that districts had already received, and noting that nothing in the prayer for relief there "would remove funding from any other entity." William Penn (2023) (slip op. at 605–11). The same reasoning applies with greater force to the narrowed declaration proposed here. The Court there also rejected the argument that the presiding officers were the wrong parties, concluding that they were capable of representing the interests of the Legislature as a whole. Id. (slip op. at 611–14). Even if an indispensable party were absent, the Rules direct that the party be joined and permit dismissal only if joinder is not possible. Pa.R.C.P. 1032(b). The sixth objection should be overruled.

IX. Seventh Objection — Failure to State a Claim (Ward POs ¶¶ 22–28)

The seventh objection asks the Court to hold, as a matter of law and on the pleadings, that the facts Petitioners allege could not show that the system fails Article III, Section 14. A demurrer may be sustained only where the face of the pleading shows that the law will not permit recovery, with doubts resolved against the demurrer. Stone & Edwards, 616 A.2d at 1063. That standard is not met.

First, Petitioners have pleaded facts. The proposed Amended Petition avers that statewide PSSA proficiency for 2024–25 was reported at 49.9% in English Language Arts and 41.7% in Mathematics; that many lower-performing schools report single-digit or near-zero proficiency in

one or more core subjects; that public per-pupil spending is high relative to many private-school tuition levels; that a 2002 analysis found that many higher-spending districts had below-average scores; and that administrative and other non-teacher professional staffing increased while enrollment declined. Am. Pet. ¶¶ 10–14 & Exs. A, B, F, G, H. Those are facts, supported by exhibits, not legal conclusions.

Second, William Penn II does not make outcome evidence legally insufficient. The passage the President Pro Tempore quotes rejects defining the constitutional minimum as "whatever standards the General Assembly relies upon at a moment in time." William Penn II, 170 A.3d at 450. The Court continued: "But we must remember that the question presented is not what standard a court might employ in assessing the General Assembly's satisfaction of its mandate, but whether any conceivable judicially enforceable standard might be formulated and applied after the development of an adequate record." Id. And it emphasized that its holding "does not suggest that Petitioners' claims, or those of any future litigant, should or will prevail," because the parties had not yet had the opportunity to develop a record. William Penn II, 170 A.3d 414. That is the opposite of a rule that outcome allegations fail on demurrer.

This Court applied that approach in William Penn (2023). After trial, it held that whether the system is "thorough and efficient" "necessarily requires an examination, not just of the inputs, but also the outcomes," and that among the outcomes that assist the Court are "the statewide assessments, the PSSAs and Keystone Exams." William Penn (2023) (slip op. at 707–09). It found that "that the state assessments have value cannot legitimately be challenged." Id. (slip op. at 709). Petitioners do not contend that any particular test-score level is itself the constitutional standard. They allege outcomes, together with cost and staffing facts, as evidence that the present system does not provide what the Constitution requires—a standard this Court

described as every student receiving "a meaningful opportunity to succeed academically, socially, and civically, which requires that all students have access to a comprehensive, effective, and contemporary system of public education." Id. (slip op. at 646).

Third, the staffing allegations are not "unexplained." Ward POs ¶ 25. The quoted statement from William Penn (2023) concerns sufficient, well-trained, and experienced teachers. Id. (slip op. at 690). Petitioners' Exhibit B and proposed Amended Petition ¶ 14 concern the growth of administrative and other non-teacher professional staffing while enrollment declined. Petitioners plead those trends, together with cost and outcomes, in support of their averment that the system is not "efficient." Am. Pet. ¶¶ 9, 12–14, 22. Whether they prove inefficiency within the meaning of Article III, Section 14 is a question for evidence.

Fourth, the curriculum objection is directed to original ¶ 15, which the proposed Amended Petition omits. Ward POs ¶ 27. Petitioners admit that the State Board has adopted academic standards and that 22 Pa. Code § 4.12(b) requires school entities to provide for their attainment. The President Pro Tempore's reliance on a State Board web page is, in any event, a matter outside the Petition. Mobley, 65 A.3d at 1053.

The seventh objection should be overruled. If the Court finds any part of the original pleading insufficiently factual, the appropriate course is to permit the proposed amendment under Pa.R.C.P. 1033, not dismissal with prejudice.

X. Eighth Objection — Insufficient Specificity (Ward POs ¶ 29)

The eighth objection is conditional; it applies only if the Court finds that the allegations about Petitioners' children and grandchildren may support traditional standing. Ward POs ¶ 29. The proposed Amended Petition identifies Petitioners' grandson I.C.L., his age, and his school district, and avers the ongoing denial to him of the constitutional right to a thorough education.

Am. Pet. ¶¶ 1, 19. Consistent with the Case Records Public Access Policy, the minor is identified only by initials. The Petition's factual averments and Exhibits A, B, F, G, and H supply material facts about systemic outcomes and costs. Dismissal for lack of specificity is not required; at most, the objection supports amendment.

XI. Attorney's Fees and Costs

Petitioners withdraw any request for attorney's fees and preserve a request for ordinary taxable costs and filing costs to the extent permitted by law. Am. Pet., Prayer for Relief ¶ E.

CONCLUSION

WHEREFORE, Petitioners respectfully request that this Court:

A. Overrule the President Pro Tempore's Preliminary Objections insofar as they seek dismissal of Petitioners' claim under Article III, Section 14, including the requested declarations and, to the extent legally available, alternative general compliance relief;

B. Deny the request that the Petition be dismissed with prejudice;

C. Note that Petitioners have withdrawn any request for attorney's fees and seek costs only;

D. Grant Petitioners' pending Application for Leave to File an Amended Petition for Review, or otherwise permit amendment under Pa.R.C.P. 1033; and

E. Enter an order in the form of the Proposed Order submitted herewith.

XII. Closing Statement

Petitioners are parents and grandparents, not lawyers. We bring this petition because the Commonwealth's own statewide tests show that most students tested are not proficient in reading or mathematics, and each year more than a hundred thousand young Pennsylvanians leave school, more than half of them without basic skills. See Petition ¶ 9 & Ex. A; proposed Amended

Petition ¶¶ 10–11 & Exs. A, F. Those children cannot wait for a perfect pleading. Respondents have raised a blizzard of technicalities, but completely ignore the primary issue — their continuing failure to comply with the requirements of the Pennsylvania Constitution and the grave harm this is causing. We respectfully ask the Court to look past any imperfection in our form to the substance of the constitutional duty at stake, overrule the preliminary objections, and allow this case to be heard on its merits.

Dated: November 14, 2026

Respectfully submitted,

Ken Vue

Kenneth V. Krawchuk, Petitioner

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Roberta L. Krawchuk

Roberta L. Krawchuk, Petitioner

117 West Avenue Elkins Park, PA 19027 215-572-9248 Ken@KenKrawchuk.com

PROPOSED ORDER

AND NOW, this _____ day of _____, 202__, upon consideration of the Preliminary Objections of Respondent Kim L. Ward, President Pro Tempore of the Pennsylvania Senate, and Petitioners' Answer thereto, it is ORDERED as follows:

1. The Preliminary Objections are OVERRULED insofar as they seek dismissal of Petitioners' claim under Article III, Section 14 of the Pennsylvania Constitution, including the requested declarations and, to the extent legally available, alternative general compliance relief.

2. The request that the Petition be dismissed with prejudice is DENIED.

3. Petitioners' request for attorney's fees is noted as WITHDRAWN. Petitioners may seek costs of suit and filing costs to the extent permitted by law.

4. Petitioners' Application for Leave to File an Amended Petition for Review shall be determined by separate order, or, if that Application is not separately pending, Petitioners are granted leave under Pa.R.C.P. 1033 to file an amended petition narrowing the action to a single Article III, Section 14 claim for declaratory relief, alternative general compliance relief to the extent legally available, and costs only, in the form lodged with the Court.

BY THE COURT:

_____ , J.

VERIFICATION

We, Kenneth V. Krawchuk and Roberta L. Krawchuk, verify that the statements made in the foregoing Answer, including the paragraph responses and the proposed standing clarification referring to our grandson as I.C.L., are true and correct to the best of our knowledge, information, and belief. We understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904.

Date: November 14, 2026 _____ Kenneth V. Krawchuk

Date: 11/14/26 _____ Roberta L. Krawchuk

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania. See Pa.R.A.P. 127. This public filing refers to a minor only by initials (I.C.L.) and does not include the minor's address or date of birth.

Date: November 14, 2025

Kenneth V. Krawchuk

Roberta L. Krawchuk

CERTIFICATE OF SERVICE

I hereby certify that on November 14, 2026, a true and correct copy of this Answer was served upon the following by electronic service through the Court's PACFile system:

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