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Kenneth V. Krawchuk
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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Kenneth V. Krawchuk; 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; Joanna E. McClinton, in her official capacity as the Speaker of the Pennsylvania House of Representatives; *Respondents*.	:	441 MD 2026

ENTRY OF APPEARANCE

Please enter the appearance of the undersigned as counsel for Respondents in the above-captioned matter:

/s/ Jason M. Staloski
Jason M. Staloski (Pa. 319423)

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Respectfully Submitted,

/s/ Jason M. Staloski

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Dated: October 2, 2026

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

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Dated: October 2, 2026

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

No. 441 MD 2026

KENNETH V. KRAWCHUK and ROBERTA L. KRAWCHUK; on behalf of themselves and all person similarly situated,

Petitioners,

v.

COMMONWEALTH OF PENNSYLVANIA, JOSH D. SHAPIRO, *et al.*

Respondents.

PRELIMINARY OBJECTIONS OF RESPONDENT JOANNA E. MCCLINTON, SPEAKER OF THE PENNSYLVANIA HOUSE OF REPRESENTATIVES

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH V. KRAWCHUK ROBERTA L. KRAWCHUK, *Petitioners*, v. COMMONWEALTH OF PENNSYLVANIA, JOSH D. SHAPIRO, *et al.*, *Respondents*.	441 MD 2026

NOTICE TO PLEAD

TO PETITIONERS:

You are hereby notified, under Pennsylvania Rule of Appellate Procedure 1516, to file a written response to the enclosed *Preliminary Objections of Respondent Joanna McClinton, Speaker of the Pennsylvania House of Representatives* within thirty (30) days from service hereof or a judgment may be entered against you.

/s/Jason M. Staloski
Jason M. Staloski

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH V. KRAWCHUK ROBERTA L. KRAWCHUK, *Petitioners*, v. COMMONWEALTH OF PENNSYLVANIA, JOSH D. SHAPIRO, *et al.*, *Respondents*.	441 MD 2026

ORDER

AND NOW, this _____ day of _____, 2026, upon consideration of the Preliminary Objections of the Respondent Joanna E. McClinton, Speaker of the Pennsylvania House of Representatives to the Petition for Review and Petitioner's response thereto, the Preliminary Objections are GRANTED and this action is DISMISSED WITH PREJUDICE against the Respondent Joanna E. McClinton, Speaker of the Pennsylvania House of Representatives.

IT IS SO ORDERED.

_____

_____

, J.

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

KENNETH V. KRAWCHUK ROBERTA L. KRAWCHUK, *Petitioners*, v. COMMONWEALTH OF PENNSYLVANIA, JOSH D. SHAPIRO, *et al.*, *Respondents*.	441 MD 2026

Introduction

Respondent Joanna E. McClinton, Speaker of the Pennsylvania House of Representatives ("Speaker") objects to the petition for review under Pennsylvania Rules of Appellate Procedure 1516 and 1517 for these reasons:

1. Petitioners commenced this Declaratory Judgment and Injunctive Relief by filing a petition for review on September 22, 2026.[1]

[1] The petition for review is attached as ***Exhibit 1***. When evaluating preliminary objections, the Court accepts a petition's well-pleaded allegations of material fact, as well as reasonable inferences it can deduce from them, but "need not accept unwarranted inferences, conclusions of law, argumentative allegations, or expressions of opinion." *Feliciano v. Pa. Dep't of Corr.*, 250 A.3d 1269, 1274 (Pa. Commw. Ct. 2021).

2. The petition was received by the Office of the Speaker on September 23, 2026.

3. Petitioners assert that the current system of public education fails to satisfy the thorough and efficient requirements demanded by Article III, Section 14 of the Pennsylvania Constitution.

4. For relief, petitioners request the Court:

a. assume original jurisdiction over this matter;

b. declare that the current system of public education fails to satisfy the thorough and efficient requirements demanded by Article III, Section 14 of the Pennsylvania Constitution;

c. declare that Respondents stand in violation of Article III, Section 14 of the Pennsylvania Constitution because of their decades-long and continuing failure to provide for a thorough and efficient system of public education;

d. declare that Respondents remain out of compliance with this Court's judgment and orders in William Penn School District Pennsylvania Department of Education, in that the seven constitutional deficiencies identified in that case have not been remedied;

e. enjoin Respondents from continuing the current failing system and order that its local monopolies be phased out;

f. order the implementation of a universal state-subsidized Education Savings Account program;

g. order the creation of an independent Pennsylvania Scholastic Standards Board;

h. enter a declaratory judgment and injunctive relief requiring Respondents to develop and submit to the Court, a comprehensive package of legislation;

i. order that Respondents report to this Court every 30 days regarding progress toward compliance;

j. retain jurisdiction to monitor compliance;

k. award costs and attorney fees; and

l. grant such other relief as the Court deems just and proper.

5. The Speaker now timely files these preliminary objections to the petition for review.

6. As detailed below, the Court should dismiss the petition because (a) Petitioners lack standing; (b) it does not name all necessary parties; (c) it lacks specificity; and (d) portions of it fail to state a claim.[2]

Preliminary Objection No. 1; Lack of Standing; Pa.R.C.P. 1028(a)(5).

7. For taxpayer standing, a party must show: (1) the government action would otherwise go unchallenged; (2) those directly and immediately affected will benefit, and thus will not make a challenge; (3) judicial relief is appropriate; (4) redress through other means is unavailable; and (5) no other party is better situated.[3]

8. Petitioners allege that they are adult residents and taxpayers of Montgomery County who pay state and local taxes supporting Pennsylvania's public-education system.[4]

9. Petitioners further allege, collectively and without further specificity, that their three children and two grandchildren "currently attend or have attended" Pennsylvania public schools.[5]

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[2] The House Speaker joins in and adopts by reference the other respondents' preliminary objections as appropriate.

[3] *Pittsburgh Palisades Park, LLC v. Com.*, 888 A.2d 655, 662 (Pa. Commw. Ct. 2005).

[4] Pet. ¶ 1.

[5] *Id.*

10. Petitioners do not identify which, if any, of those individuals presently attends a Pennsylvania public school, the school or school district attended; the educational opportunity allegedly denied; or any individualized educational injury suffered by either Petitioner.

11. Instead, Petitioners expressly characterize the alleged injury as one shared generally by the public, averring that the alleged harm affects "every citizen," "every taxpayer," and "every parent."[6]

12. Pennsylvania standing requires a petitioner to possess an interest that is substantial, direct, and immediate and that exceeds the common interest of all citizens in obtaining compliance with the law.[7]

13. Payment of taxes, without more, does not establish the requisite individualized interest.[8]

14. The narrow taxpayer-standing exception recognized in *Biester* applies only in exceptional circumstances, including where the governmental action would otherwise go unchallenged and no other person is better situated to assert the claim.

15. Those circumstances are absent here. The constitutional adequacy of Pennsylvania's education system has already been challenged by school districts,

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[6] *Id.*
[7] *In re Application of Biester*, 487 Pa. 438, 442-43, 409 A.2d 848, 851 (Pa. 1979).
[8] *Id.*

parents of school-age children, and organizations representing affected students in *William Penn School District v. Pennsylvania Department of Education*, 294 A.3d 537 (Pa. Cmwlth. 2023).

16. *William Penn* demonstrates that individuals and entities with substantially more direct interests can challenge the Commonwealth's compliance with Article III, Section 14 of the Pennsylvania Constitution.

17. Petitioners therefore have not pleaded either traditional standing or the exceptional circumstances required for taxpayer standing

Preliminary Objection No. 2; Count III Fails to State a Claim Because the *William Penn* Judgment Did Not Impose the Requirements Petitioners Allege Respondents Violated; Pa.R.C.P. 1028(a)(4).

18. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

19. Count III alleges that the purported absence of "meaningful progress" places Respondents "squarely in violation of this Court's orders." ("The Order") in *William Penn*.[9]

20. That allegation mischaracterizes the operative *William Penn* judgment.

[9] Pet. ¶ 25.

21. The Order in *William Penn* entered declaratory relief establishing, among other things, the constitutional standard under Article III of the Pennsylvania Constitution.

22. The Order did not direct Respondents to enact a particular statute, establish an Education Savings Account program, abolish local school districts, create a Pennsylvania Scholastic Standards Board, enact legislation within a prescribed period, or otherwise adopt the reforms demanded in this petition.[10]

23. In addressing remedy, the *William Penn* Court expressly afforded the Executive and Legislative Branches the "first opportunity" to devise a plan addressing the constitutional deficiencies.[11]

24. The Court relied upon decisions declining to instruct legislatures concerning "the specifics of the legislation" they should enact and explained that future General Assemblies "must remain free to experiment with and adjust" Pennsylvania's education system.[12]

25. Because *William Penn* imposed no judicial command requiring the specific remedial action Petitioners allege Respondents failed to perform, the

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[10] *William Penn School District v. Pennsylvania Department of Education*, 294 A.3d 537 (Pa. Commw. Ct. 2023).
[11] *Id.*
[12] *William Penn*, 294 A.3d at 963.

alleged failure to implement those measures cannot constitute violation of the *William Penn* judgment.

Preliminary Objection No. 3; Sovereign Immunity Bars Petitioners' Claims for Mandatory Injunctive Relief; Pa.R.C.P. 1028(a)(4).

26. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

27. Count IV seeks affirmative injunctive relief compelling wholesale changes to Pennsylvania's education system.

28. Petitioners request orders compelling dissolution of the existing local public-school structure; creation of a Pennsylvania Scholastic Standards Board; implementation of a universal Education Savings Account program; preparation and enactment of implementing legislation within approximately 180 days; gubernatorial signature of legislation; 30-day progress reports; and continuing judicial supervision.

29. The Pennsylvania Supreme Court has recently reaffirmed that sovereign immunity bars a permanent injunction directing affirmative action by a Commonwealth agency or official.[13]

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[13] *Firearms Owners Against Crime—Institute for Legal, Legislative & Educational Action v. Paris*, 335 A.3d 1019, 1037-38 (Pa. 2025).

30. Although sovereign immunity does not bar a freestanding declaratory judgment establishing legal rights, a materially different rule applies where the requested relief compels affirmative governmental action.[14]

31. The substance of the requested relief controls. Petitioners' demands unmistakably seek affirmative governmental action rather than merely a declaration concerning the meaning of Article III, Section 14 of the Pennsylvania Constitution.

32. Sovereign immunity may be raised by preliminary objection where, as here, its applicability is apparent from the face of the pleading.[15]

Preliminary Objection No. 4; Petitioners' Demand That This Court Select and Compel Enactment of a Particular Legislative Program Violates Separation-of-Powers Principles and Fails to State a Legally Available Claim for Relief; Pa.R.C.P. 1028(a)(4).

33. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

34. Article II, Section 1 of the Pennsylvania Constitution vests the legislative power of the Commonwealth in the General Assembly.

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[14] *Id.*

[15] *Firearms Owners Against Crime—Institute for Legal, Legislative & Educational Action v. Evanchick*, 291 A.3d 507, 514 (Pa. Commw. Ct. 2023), aff'd in relevant part, *Paris*, 335 A.3d 1019.

35. Petitioners do not only seek judicial interpretation of Article III, Section 14 of the Pennsylvania Constitution. They ask this Court to select the substantive structure of Pennsylvania's future education system and compel the coordinate branches to enact and implement that structure.

36. Petitioners specifically request a judicial order:

a. dissolving the existing local public-school structure;

b. requiring universal state-funded Education Savings Accounts;

c. creating a particular statewide education board;

d. requiring Respondents to draft and submit a comprehensive legislative package within approximately 180 days;

e. requiring enactment of that legislation;

f. requiring that the legislation be signed into law following judicial approval; and

g. subjecting the legislative process to continuing 30-day reporting requirements.

37. Exhibit C goes further, proposing dissolution of all local school boards, transfer of public-school assets and liabilities to the Commonwealth, sale

of public schools, assumption of bond obligations, and eventual auction or closure of unsold schools.

38. Those decisions involve the exercise of legislative policymaking concerning taxation, appropriations, public property, school governance, curriculum, institutional structure, and enactment of statutes.

39. Separation of powers prohibits one branch from exercising functions constitutionally committed to another.[16] In *Finn*, this Court sustained preliminary objections where the requested relief would compel appropriations and interfere with functions constitutionally committed to the legislative and executive branches.

40. Respondents do not contend that *William Penn* prevents courts from adjudicating whether Pennsylvania's education system satisfies Article III, Section 14 of the Pennsylvania Constitution.

41. Rather, the distinction is between declaring what the Constitution requires and judicially selecting the legislation through which a coordinate branch must comply.

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[16] *Finn v. Rendell*, 990 A.2d 100, 106-07 (Pa. Commw. Ct. 2010).

42. *William Penn* itself preserved that distinction. Following a finding of constitutional violations after trial, the Court declined to provide the General Assembly with a specific solution or dictate the specifics of legislation to be enacted.

43. The Court expressly explained that the available reform options are "virtually limitless" and that its remedy did not prevent the General Assembly from continuing local control or otherwise exercising its policy discretion.

44. Petitioners now seek precisely the relief *William Penn* declined to impose.

45. Even assuming Petitioners could establish entitlement to declaratory relief, the Court cannot constitutionally become the creator of an education statute and compel the General Assembly and Governor to enact that judicially selected policy.

Preliminary Objection No. 5; The Speech or Debate Clause Bars Relief Requiring The Speaker to Perform Protected Legislative Acts; Pa.R.C.P. 1028(a)(4).

46. Respondents incorporate the preceding paragraphs as though fully set forth herein.

47. Article II, Section 15 of the Pennsylvania Constitution provides that members of the General Assembly shall not be questioned in any other place for speech or debate in either House.

48. The Speech or Debate Clause is interpreted broadly to protect legislators against judicial interference concerning conduct falling within the "legitimate legislative sphere."[17]

49. Petitioners expressly allege that they named President Pro Tempore Ward and Speaker McClinton because the relief Petitioners seek "can be enacted only by statute."[18]

50. Petitioners accordingly seek orders directing the Legislative Respondents to participate in the drafting, advancement, consideration, passage, and monitoring of specific legislation.

51. Drafting legislation, introducing or advancing legislation, debating legislation, voting upon legislation, and managing proceedings of the General Assembly fall within the legitimate legislative sphere protected against judicial interference.

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[17] *Consumers Education & Protective Association v. Nolan*, 470 Pa. 372, 381-83, 368 A.2d 675, 680-81 (Pa. 1977).
[18] Pet. ¶ 5.

52. This objection does not contend that the Legislative Respondents are immune from a judicial declaration concerning a constitutional obligation. Rather, the objection is directed to Petitioners' attempt to compel specific legislative activity and subject the performance of those legislative functions to continuing judicial supervision.

53. Pennsylvania precedent recognizes that the Speech or Debate Clause protects legitimate legislative activities from such judicial interference.[19]

Preliminary Objection No. 6; Petitioners Have Failed to Join Necessary and Indispensable Parties; Pa.R.C.P. 1028(a)(5).

54. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

55. Rule 1028(a)(5) authorizes a preliminary objection based upon the nonjoinder of a necessary party.

56. Petitioners seek declaratory relief, under 42 Pa.C.S. § 7540(a) which requires that persons possessing interests that would be affected by the declaration be made parties to the proceeding.

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[19] 368 A.2d at 680-81;990 A.2d at 106-07.

57. Petitioners' proposed remedy would directly affect the legal rights and property interests of Pennsylvania's school districts and school boards.

58. Exhibit C expressly proposes that "all local school boards are dissolved," that the Commonwealth assume ownership of "all public school assets and liabilities," that public schools be placed for sale, and that certain schools eventually be auctioned or closed.

59. The requested decree would therefore directly affect school districts' governance, statutory existence, real and personal property, contractual obligations, bond liabilities, employees, and continuing operations.

60. None of those school districts or school boards have been joined as a party.

61. Nor have Petitioners joined the Pennsylvania Department of Education, Secretary of Education, or State Board of Education, despite acknowledging that those governmental entities administer the existing Public School Code.[20]

[20] Pet. ¶ 5.

62. The Pennsylvania Supreme Court has explained that a party is indispensable when its rights are so connected with the claims at issue that no decree can be entered without impairing those rights.[21]

63. This Court's discussion in *William Penn* is instructive. There, the Court distinguished *Oas v. Commonwealth*, 301 A.2d 93 (Pa. Commw. Ct. 1973), in which school districts were indispensable because the requested order would directly affect their legal interests.[22]

64. Unlike the relief ultimately entered in *William Penn*, the relief demanded here would directly extinguish school boards, divest school entities of assets, transfer liabilities, and mandate disposition of school property.

65. Such relief cannot be awarded in the absence of the governmental entities whose legal rights would be directly altered.

Preliminary Objection No. 7; The Petition Is Insufficiently Specific; Pa.R.C.P. 1028(a)(3).

66. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

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[21] *City of Philadelphia v. Com.*, 575 Pa. 542, 567, 838 A.2d 566, 582 (Pa. 2003).
[22] *William Penn*, 294 A.3d at 608-15.

67. Pennsylvania is a fact-pleading jurisdiction, and a pleading must contain sufficient material facts to enable the responding party to understand the claims asserted and prepare a defense.[23]

68. Counts I and II consist largely of incorporation paragraphs followed by the conclusions that Pennsylvania's present education system is constitutionally deficient and that "Respondents" are responsible.

69. The petition does not identify:

a. the particular present educational injury suffered by either Petitioner;

b. the school or school district associated with that injury;

c. the conduct or omission separately attributable to each Respondent;

d. the particular post-*William Penn* constitutional deficiency attributable to each Respondent;

e. the causal connection between an act of each Respondent and Petitioners' alleged injury; or

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[23] *Ioannidis v. Wolf*, 260 A.3d 1091 (Pa. Commw. Ct. 2021), *aff'd.* 672 Pa. 302, 270 A.3d 1110 (2022).

f. an objective basis for the assertion that Respondents have made no constitutionally meaningful progress following William Penn.

70. Count III similarly alleges only that a purported "lack of any meaningful progress" places Respondents in violation of *William Penn*, without identifying an operative provision of the judgment allegedly violated.

71. Paragraph 28 further asserts that Respondents lack "either the knowledge, or the motivation, or both" to comply with the Constitution of Pennsylvania, but pleads no material facts supporting that conclusory allegation.

72. Legal conclusions, argumentative allegations, unwarranted factual inferences, and expressions of opinion need not be accepted as true when preliminary objections are considered.[24] This Court recently reiterated this standard when considering preliminary objections.[25]

Preliminary Objection No. 8; Petitioners' Demand for Attorney's Fees Is Legally Insufficient; Pa.R.C.P. 1028(a)(4).

73. The Speaker incorporates the preceding paragraphs as though fully set forth herein.

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[24] *Stedman v. Lancaster Cnty. Bd. of Commissioners*, 221 A.3d 747, 755 (Pa. Commw. Ct. 2019).

[25] *L.F.V. by Varano v. S. Philadelphia High Sch.*, No. 243 EAL 2025, Supreme Court of Pennsylvania, 2025, *Petition for Allowance of Appeal*. 340 A.3d 395, 398 (Pa. Commw. Ct.), appeal granted, 350 A.3d 50 (Pa. 2025).

74. Petitioners request an award of "costs and attorney fees."[26]

75. Petitioners are proceeding *pro se* and plead no statutory authorization, contractual provision, or recognized exception authorizing an award of attorney's fees.

76. Under Pennsylvania's incorporation of the American Rule, each party ordinarily bears its own attorney's fees absent express statutory authorization, an agreement, or another established exception.

77. This Court has sustained a preliminary objection striking a request for attorney's fees in a declaratory-judgment action where the petitioners identified neither statutory authority nor an agreement authorizing a fee award.[27]

78. Further, Pennsylvania law provides that a *pro se* litigant ordinarily may not recover attorney's fees or equivalent compensation for his or her own work.[28]

WHEREFORE, Respondent Joanna E. McClinton, Speaker of the Pennsylvania House of Representatives, requests that the Court sustain these

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[26] Pet., Prayer ¶ K.
[27] *Albert Einstein Med. Ctr. v. Med. Care Availability & Reduction of Error Fund*, 310 A.3d 1267(Pa. Commw. Ct. 2023).
[28] *Sawicki v. Wessels*, 290 A.3d 1283 (Pa. Commw. Ct. 2022).

preliminary objections and dismiss the petition for review in its entirety, or, in the alternative, as to Joanna E. McClinton, with prejudice.

Respectfully submitted,

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Counsel for Respondent Joanna E. McClinton, Speaker of the Pennsylvania House of Representatives

Dated: October 13, 2026

CERTIFICATE OF COMPLIANCE

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