

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

Tim Allen, et al.,

Petitioners,

v.

Carolyn Dumaresq, in her capacity as
Acting Secretary of the Pennsylvania
Department of Education,

Respondent.

Docket No. 474 MD 2014

REPLY TO RESPONDENT'S NEW MATTER

Petitioners, through their counsel and pursuant to Rules 1516(b) and 1517 of the Pennsylvania Rules of Appellate Procedure and Rule 1029 of the Pennsylvania Rules of Civil Procedure, hereby submit the following responses to the averments in the New Matter filed by Respondent on July 17, 2015.

RESPONSES

1. The averments in paragraph 1 are conclusions of law to which no response is required and are deemed denied.
2. Denied. Petitioner Kapps submitted an allegation of curriculum deficiency to Respondent stating, *inter alia*, that in her daughter's Honors English and

Honors American History classes, “[t]he course work is watered down to accomodate [sic] the extra students and she doesn’t receive the accelerated education she has earned” and that “I think the coursework will be reduced to accommodate the lowest achieving students, not the highest achieving.” Exhibit K to Petition for Review.

3. Admitted only that Petitioner Plush’s allegation of curriculum deficiency, Exhibit N to Petition for Review, did not contain the wording used in paragraph 3. Denied in all other respects. It is not the responsibility of lay complainants to use magic words when filing allegations; rather, it is the responsibility of Respondent to investigate allegations, including Petitioner Plush’s allegation that “other necessary staff have also been cut, further reducing available supports and reducing the current staff’s ability to do their job effectively.”
4. Admitted only that Petitioner Plush’s allegation of curriculum deficiency, Exhibit N to Petition for Review, did not contain the wording used in paragraph 4. Denied in all other respects. It is not the responsibility of lay complainants to use magic words when filing allegations; rather, it is the responsibility of Respondent to investigate allegations, including Petitioner Plush’s allegation that “other necessary staff have also been cut, further

reducing available supports and reducing the current staff's ability to do their job effectively.”

5. The averments in paragraph 5 are conclusions of law to which no response is required and are deemed denied.
6. The averments in paragraph 6 are conclusions of law to which no response is required and are deemed denied.
7. The averments in paragraph 7 are conclusions of law to which no response is required and are deemed denied.
8. The averments in paragraph 8 are conclusions of law to which no response is required and are deemed denied.
9. After reasonable investigation, Petitioners are without knowledge or information sufficient to form a belief as to the truth of the averment in paragraph 9 that “[t]he Secretary is currently investigating the curriculum deficiencies identified in the Court’s June 19, 2015 Opinion and Order.” The remainder of the averments in paragraph 9 are conclusions of law to which no response is required and are deemed denied.
10. Denied. It is not “impossible” for Respondent to conduct investigations.

WHEREFORE, the Court should enter judgment in favor of Petitioners and against Respondent.

Respectfully submitted,

/s/ Benjamin D. Geffen

Amy Laura Cahn

Attorney ID No. 306762

Benjamin D. Geffen

Attorney ID No. 310134

Public Interest Law Center of Philadelphia
1709 Benjamin Franklin Parkway, 2nd Floor
Philadelphia, PA 19103

Tel: 215-627-7100

Fax: 215-627-3183

Email: acahn@pilcop.org

bgeffen@pilcop.org

Counsel for Petitioners

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