

IN THE SUPREME COURT OF PENNSYLVANIA

NO. 47 EM 2014

THE SCHOOL REFORM COMMISSION and THE SCHOOL DISTRICT OF
PHILADELPHIA,

Petitioners

v.

PHILADELPHIA FEDERATION OF TEACHERS, LOCAL 3, AFT, AFL-CIO,

Respondent

RESPONSE TO APPLICATION FOR LEAVE TO FILE ORIGINAL PROCESS

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I. INTRODUCTION

Petitioners, School District of Philadelphia ("School District") and School Reform Commission ("SRC")¹, have filed an Application for Leave to File Original Process (hereinafter "Application") seeking to invoke this Court's original jurisdiction under § 27 of Act 46. Petitioners do not raise a constitutional challenge to any of the provisions of Act 46 of 1998, P.L. 270, 24 P.S. § 6-693 and 696. Rather, SRC invokes the Court's jurisdiction ostensibly to deal with "issues related to collective bargaining arising under those sections 691 (c) and 696 of Act 46" and what are characterized in the pleadings as "work rule" issues, but which are in fact acknowledged to be grounded in specific provisions of the collective bargaining agreement negotiated between the SRC and the Philadelphia Federation of Teachers, Local 3, AFT, AFL-CIO (hereinafter "the Federation" or "Union"). Furthermore, Petitioners seek declaratory relief to avoid the consequences of grievance arbitration concerning grievances already filed by the Federation, or those that may be filed, over many of the issues specifically delineated in the pleadings. In essence, Petitioners are seeking an advisory ruling on issues arising under a collective bargaining agreement and, as an ancillary matter, on issues arising under the Pennsylvania Public Employee Relations Act (PERA), 43 P.S. § 1101.101 *et seq.* Accordingly, the Court lacks jurisdiction over the Complaint Petitioners seek to file.

¹ The School District and the SRC are hereinafter referred to as "Petitioners" or "SRC."

Act 46 was enacted in 1998. Since it was implemented in Philadelphia in 2001, the SRC has been the governing body of the School District. During the past thirteen (13) years, the SRC has been clothed with the full force and authority contained in sections 691 and 696 of Act 46 but nonetheless has negotiated four (4) successive collective bargaining agreements with the Federation, and is currently engaged in collective bargaining for a fifth such agreement.² In its Petition, the SRC maintains that there are work rules which interfere with its ability to run the school system. These work rules are, in fact, agreements which have been negotiated between the SRC and the Federation and contained in a series of lawful collective bargaining agreement. For each and every issue delineated in the SRC's Application as work rule changes, the SRC is asking this Court to intervene and abrogate contractual provisions including but not limited to seniority, recall from seniority, leveling (the reallocation of staff after enrollments stabilize), preparation time, the requirement to maintain one counselor in each school and a librarian or library assistant in schools with a student body in excess of 1,000, arise. These provisions do not arise from any provision of Act 46 or § 691 or § 696, but from specific provisions of the collective bargaining agreements negotiated between the SRC and the Federation. Thus, the SRC is petitioning this Court for relief from the agreements it negotiated over the last thirteen (13) years with the Federation while possessing all of the authority conferred upon it by Act 46.

² In addition to the Federation, the SRC has negotiated multiple agreements within this 13 year period with other school district unions including SEIU Local 32 BJ, The Commonwealth Association of Principals and Administrators International Brotherhood of Teamsters, School Cafeteria Employees Local 634, UniteHere, and The School Police Association of Philadelphia.

Similarly, the grievances from which the SRC seeks dispensation through the intervention of this Court arise, not from any interpretation or application of any provision of Act 46, but from the grievance and arbitration provision of the collective bargaining agreement between the SRC and the Federation. In these grievances, the Federation has taken the position that the SRC violated one of the express provisions of the Agreement that it negotiated with the Federation. Thus, the disputes that the SRC references in its pleadings are disputes which arise under the collective bargaining agreement, not Act 46.

In order to abrogate provisions of its collective bargaining agreement and its dispute resolution mechanism, the SRC asks this Court to overrule case law developed over the many years by this Court, the Commonwealth Court and the Pennsylvania Labor Relations Board establishing that the grievance and arbitration dispute resolution mechanism is the only method for resolving these issues. Because the proposed Complaint raises issues arising not under Act 46, but under PERA and a voluntarily agreed upon and lawful collective bargaining agreement, this Court lacks jurisdiction over the proposed Complaint.

In addition, there is no case or controversy pending before this Court. While a budget crisis exists in the School District, contrary to the assertions made in the SRC's pleadings, it is a funding crisis created by the failure of the legislative bodies having the constitutional and statutory obligation to properly fund the School District. However,

the work rule changes that the SRC asks this Court to permit it to impose do not alleviate the funding crisis. There is no collective bargaining crisis since the issues raised by the SRC arise solely from negotiated provisions of agreements made between the SRC and the Federation. Moreover, each of these issues is the subject of ongoing negotiations between the Federation and the School District resulting in the exchange of proposals and the narrowing of differences.

For these reasons, this Court should decline the SRC's invitation to involve itself in the negotiating process involving two entities which have demonstrated an ability to negotiate to agreement over thirteen (13) years and which has resulted in four (4) successive collective bargaining agreements. Those four agreements were reached without intervention of this Court. There is no reason to believe that the intervention of this Court is necessary in order for either the SRC or the Federation to arrive at a fifth such agreement. Nor is it consistent with the role of this Court to become the final arbiter of the infinite number of labor disputes between the Federation and any of the other school district unions. The parties should utilize the established processes of collective bargaining, grievance-arbitration, and those existing under PERA. Thus, even assuming this Court has jurisdiction, it should deny the Application.

II. STATEMENT OF FACTS

In December 2001, the Pennsylvania Secretary of Education declared the School District financially distressed ("Declaration of Distress"), leading to the invocation of Act

46 and the replacement of the Board of Education by the SRC. Since the Declaration of Distress, the SRC has negotiated four separate collective bargaining agreements. The contract in place at the time of the Declaration of Distress covered the period September 1, 2000 through August 31, 2004. The first contract negotiated between the SRC and the PFT covered the period September 1, 2004 to August 31, 2008. Subsequently, a one year extension was negotiated covering the period of September 1, 2008 to August 31, 2009. The next agreement covered the period September 1, 2009 to August 31, 2012. This was followed by a one (1) year extension covering the period September 1, 2012 through August 31, 2013. Each of the agreements was the product of negotiation between the PFT and the SRC, and was ratified by the membership of the PFT and by the SRC.

The contracts negotiated between the Federation and the SRC, including the agreement that expired on August 31, 2013 which constitutes the existing terms and conditions of employment, contain negotiated provisions dealing with seniority, layoff and recall (Article IX Section B), the presence of counselors in every school (Article VIII D Section 14), the requirement that every school with 1,000 or more pupils have a library and a librarian or library assistant (Article XVIII paragraph C13(a)); assignments and transfers, including positions added or dropped as a result of changes in enrollment (Article XVIII C), and provisions dealing with the use and allocation of preparation time (Article XVIII B 1). In each of the successive agreements between the Federation and the SRC, both parties have submitted proposals, negotiated, and made modifications,

amendments or changes to virtually every one of the subject areas identified in the SRC's Application.

For example, at one time, assignments and transfers were predominantly a seniority driven system. Over several contracts, numerous exceptions to the seniority provisions were negotiated by the PFT and the SRC. As a result, the vast majority of assignment and transfer decisions are now made through school based site selection committees, which includes the principal, and where seniority plays only a minimal role in the selection process. Furthermore, in prior negotiations, the Federation has also agreed to limitations on the use of preparation time. Additionally, the Federation has made further concessions on preparation time in School District Renaissance schools (Promise Academies) that permit the principal to direct preparation time. (Article XVII F (2)).

On the other hand, the SRC has never made a proposal to contract out the work of per diem substitute teachers. Per diem substitute teachers are a separate certified bargaining unit of the Federation. For the first time, in its Application to this Court, the SRC is now asking "permission" to contract out an entire part of this bargaining unit. Furthermore, while the SRC has taken action to waive provisions of the Public School Code, there have been no SRC resolutions to implement any specific proposal dealing with any of the seniority, recall, layoff, preparation time, subcontracting of per diem substitutes or other issues referenced in the Application.

The Federation has filed grievance regarding some of the changes that the SRC has unilaterally made. For example, the Federation has filed a grievance and a demand for arbitration over the failure to recall laid off teachers and counselors in seniority order consistent with the practice arising under the expired collective bargaining agreement. That grievance was submitted directly to arbitration on or about November 7, 2013 as a result of an agreement between counsel for the Federation and the General Counsel for the School District of Philadelphia to by-pass the earlier step of the grievance process in the collective bargaining agreement. The parties are in the process of scheduling an arbitration on an expedited basis. Similarly, the Federation has filed grievances challenging the SRC's failure to abide by its contractual requirements concerning the assignment of guidance counselors and librarians in schools as well as the existence of a library in some schools. These matters currently are being processed pursuant to the grievance and arbitration procedures of the collective bargaining agreement, but have not yet been scheduled for a hearing.

In the past, the parties have successfully resolved disputes over issues like those referenced by Petitioners in their Application. In some instances, the Federation prevailed. In other instances the School District prevailed. In short, the parties used the grievance mechanism required under PERA to resolve disputes. 43 P.S. § 1101.903. For example, on December, 3, 2011, despite the existence of a contractual June 30 deadline for notification of layoffs, the School District laid off forty-seven (47) School Nurses. These positions were eliminated as part of the School District's 2011 budget

crisis which resulted in the layoff of approximately 2800 Federation represented employees. The Federation filed a grievance arguing that the layoffs should be voided because the notification occurred after June 30. The SRC and the School District agreed to submit the issue of the layoffs to expedited arbitration. On June 18, 2012, an Arbitrator denied the grievance and opined that the School District had the authority to lay off school nurses as a result of the budget crisis despite the existence of the June 30th deadline and despite the fact that nurses are included in the teachers' bargaining unit.

There also has been prior litigation involving the parties and Act 46. On August 30, 2000, a coalition of unions representing employees of the School District, individual parents and students, and other organizational plaintiffs filed a Petition for Declaratory and Injunctive Relief pursuant to § 27 of Act 46 with this Court. This Order was entered in response to a Motion to Dismiss for Mootness and Lack of Actual Case or Controversy filed by the School District on November 6, 2000. On November 17, 2000, this Court issued a Per Curiam Order dismissing the Complaint for Declaratory and Injunctive Relief as moot. The Order was sought after the Federation and the School District had reached a collective bargaining agreement in October of 2000 covering the period September 1, 2000 through August 31, 2004. (See docket entries attached as Exhibit B to Petitioners' Application.)

On May 31, 2011 the SRC adopted a resolution ("SRC 5") which purported to authorize the School District to suspend certain provisions of the Public School Code regarding layoffs by inverse order of seniority. The exemption embodied in SRC 5 sought to avoid the layoff of less senior teachers assigned to School District operated Promise Academies. The Federation filed a demand for arbitration and sought a temporary restraining order and preliminary injunction from the Philadelphia County Court of Common Pleas to preserve the status quo while the matter was pursued through the arbitration process. The Court of Common Pleas issued a temporary restraining order and scheduled a preliminary injunction hearing. The School District filed an Application for Extraordinary Relief with this Court invoking the jurisdiction of § 27 of Act 46 as well as the extraordinary jurisdiction provisions of 42 Pa. C.S. §726. In a Per Curiam Order dated June 15, 2011, this Court dismissed the SRC's Emergency Application for Extraordinary Relief, Action for Declaratory Relief and related motion. *Philadelphia Federation of Teachers, AFT, Local 3 v. School District of Philadelphia*, 610 Pa. 452, 21 A.3d 679 (2011). (The docket entries in this case, No. 80 EM 2011, are attached hereto as Exhibit A.) The matter returned to the Court of Common Pleas. It was subsequently submitted by agreement to binding arbitration, but was resolved by the parties prior to the issuance of an award by an Arbitrator.

In sum, the Federation and the SRC are negotiating over every issue delineated in the Application. The parties are not at impasse on any issue. The Federation is prepared to resume negotiations with the SRC at any time utilizing the services of the

Pennsylvania Bureau of Mediation. Issues in dispute as identified by the SRC in its pleadings have either been arbitrated in the past, are pending arbitration, or have yet to occur and no grievances have been filed. So far this Court has declined to exercise jurisdiction in disputes between the parties whenever the issue was brought to its attention.

III. **ARGUMENT**

A. **The Court Lacks Jurisdiction over the Application**

1. ***The Relief Sought by Petitioners is Outside the Scope of § 27 of Act 47***

§ 27 of Act 46 of 1998, P.L. 270, provides as follows:

The Pennsylvania Supreme Court shall have exclusive jurisdiction to hear any challenge to or to render a declaratory judgment concerning the constitutionality of Sections 691(c) and 696 of the Act and issues related to collective bargaining arising under those sections. The Supreme Court is authorized to take such action as it deems appropriate consistent with the Supreme Court retaining jurisdiction over such a matter, to find facts or to expedite a final judgment in connection with such a challenge or request for declaratory relief.

When the General Assembly amended the School Code by means of Act 46, it recognized that the unique powers it bestowed on the SRC in §§ 691(c) and 696 might be subject to constitutional challenges. To enable a definitive and expedited resolution of such challenges, the legislature included, via § 27, a grant of exclusive jurisdiction to this Honorable Court. Accordingly, challenges to Act 46 or to the exercise of powers

afforded to the SRC related to collective bargaining could be heard by the Supreme Court exercising this limited grant of original jurisdiction. See Application at ¶ 21.

But this Application is not that type of challenge. The SRC turns the statute on its head when it asks the Supreme Court to determine if changes that the SRC wants to make to the *status quo* are lawful. Section 27 was intended to provide a shield for the SRC, not a sword to be wielded by it. Yet, the sole purpose of the Complaint Petitioners seek to file is to obtain leverage in its ongoing negotiations with the PFT.³ Accordingly, the relief sought by Petitioners does not fall within the scope of § 27.

The interpretation of § 27 offered by Petitioners is unsupported, overly broad and inconsistent with the intent of the legislation. Under their interpretation, this Court's jurisdiction covers any issue related to collective bargaining which in any way touches on the subjects referenced in § 6-696(k)(2). See Application ¶¶ 23 and 24. That interpretation leads to the result that this Court would have exclusive jurisdiction over any dispute, any grievance, or any unfair practice charge concerning subcontracting of educational services, layoffs, staffing, class schedules, academic calendar, places of instruction, pupil assessment, teacher preparation time, etc. This result is not only

³ Among other items, Petitioners seek a declaration that they have "the right – while bargaining with the PFT towards a new agreement following the expiration of the old one – to unilaterally implement reforms to the work rules and practices above regarding staffing patterns and assignments, the order and timing of layoffs, the order of recalls from layoff status, the uses of teacher preparation time, and subcontracting. Proposed Complaint at p. 37.

absurd,⁴ but is at odds with the history of private dispute resolution between the parties. It is submitted that the General Assembly did not intend for this Court to become the arbitrator, mediator and labor board for the School District.⁵ This Court should decline the SRC's invitation to assume those roles.

Petitioners further distort the construction of § 27 when they focus only on Subsection (k)(2) of § 696. Section 27, however, is not so limited and refers generally to § 696. Petitioners ignore Subsection (k) (1), (3) and (4) of § 696. First, clause (1) provides in material part that a collective bargaining agreement in effect on the effective date of Act 46 " . . . shall not be extended and shall have no force or effect beyond the existing term of the contract notwithstanding any other law to the contrary." Next, clause (3) provides that a collective bargaining agreement for professional employees entered into after the expiration of the agreement in effect on the date of the declaration of distress shall meet certain requirements. Finally, clause (4) states:

A provision in any contract in effect on the date of the declaration of distress under this subsection that is in conflict with this subsection shall be discontinued in any new or renewed contract.

The parties are well beyond the first contract negotiated after the declaration of distress. Indeed, there have been four (4) contracts negotiated by the SRC under the provisions of Act 46. One presumes that when the SRC ratified these contracts it assured that

⁴ It is presumed that the General Assembly did not intend an absurd or unreasonable result. 1 Pa. C.S. § 1922(1).

⁵ The intention of the General Assembly may be ascertained, among other ways, by the "consequences of a particular interpretation." 1 Pa. C.S. § 1921(c)(6).

they met all the conditions described above, namely that: (a) they were not mere extensions of the contract in effect on the effective date of Act 46; (b) they included the necessary requirements; and (c) they did not create conflicts with subsection (k). Therefore, there should be no reason to invalidate provisions of a collective bargaining agreement that met all the requirements of § 696.

If § 27 is interpreted as suggested by Petitioners, it would permit the SRC, at any time, to abrogate provisions it had previously negotiated. As new members of the SRC are appointed and the composition of the Commission changes, prior agreements would be subject to unilateral changes by the newly constituted SRC. Such a result is clearly inconsistent with the intent of § 27 when read in the context of § 696 as a whole.⁶

In sum, the Court should not permit Petitioners to use § 27 offensively in order to abrogate provisions of a collective bargaining agreement, or of the *status quo* established by a collective bargaining agreement, to which it voluntarily and lawfully agreed.

2. The Application Raises Issues under PERA, not under Act 46

Even if the SRC is entitled, after thirteen (13) years governing the School District under the provisions of Act 46, to seek a declaration of the rights it possesses under that Act, this particular Application raises issues which are outside the scope of § 27.

⁶ A statute must be construed, if possible, to give effect to all its provisions. 1 Pa. C.S. § 1921(a).

Because § 27 is the only basis claimed by Petitioners for this Court's original jurisdiction, the Application should be denied as it seeks to bring issues before this Court over which it lacks original jurisdiction. Specifically, Petitioners assert they need clarity with respect to a purported conflict between this Court's decision in *City of Pittsburgh v. PLRB*, 539 Pa. 535, 653 A.2d 1210 (1995) and *Coatesville Area School District v. Coatesville Area Teachers Association*, 978 A.2d 413 (Pa. Cmwlth. 2009), petition for allowance of appeal denied, 605 Pa. 677, 989 A.2d 10 (2010). See Application ¶ 17. Petitioners claim that if the Commonwealth Court's decision in *Coatesville* is applicable, it would "tie the hands" of the SRC and forbid it from making the unilateral changes to the *status quo* which it contemplates. Application at ¶ 18.

The *City of Pittsburgh* case arose under the provisions of PERA, 43 P.S. §§ 1101.701-703 and was decided on appeal from a decision of the Pennsylvania Labor Relations Board ("PLRB"). It did not involve Act 46. Whether a public employer is barred from implementing unilateral changes as to alleged non-mandatory subjects of bargaining during the interim between collective bargaining agreements arises under PERA, not Act 46. The cases cited by Petitioners demonstrate the need for fact finding and deliberation by the PLRB which has exclusive jurisdiction over unfair practices as defined by PERA. *Hollinger v. Dep't of Public Welfare*, 469 Pa. 358, 365 A.2d 1245 (1976). Whether a subject, albeit non-mandatory or permissive, becomes a binding element of the *status quo* while the parties are negotiating a successor agreement falls within the exclusive jurisdiction of the PLRB. Furthermore, whether a nonmandatory

subject has bargainable impacts on employees is best determined by the PLRB, after a hearing.⁷

While *Coatesville* was an appeal of a labor arbitration award, it also required the Commonwealth Court to interpret and apply provisions of PERA, including 43 P.S. § 1101.702. Like *City of Pittsburgh*, it did not involve issues under Act 46. In short, the basis of Petitioners' Application – the asserted conflict between two cases – rests upon an interpretation of PERA.

Furthermore, the asserted conflict between the two decisions does not exist. *City of Pittsburgh* is not applicable to the potential situation here. First, the *City of Pittsburgh* involved not Act 46, but Act 205, which deals with pensions. Act 205 has explicit language which is quite different from the language in Act 46. Secondly, while § 696(k)(2) of Act 46 states that the School District is not "required to engage in collective bargaining negotiations or enter into memorandum of understanding or other agreements" (emphasis added) relating to specific issues, it does not prohibit such negotiations or agreements. Here, the parties have bargained the very subjects raised by the SRC in its Application and have addressed those subjects in successive collective bargaining agreements negotiated after the passage of Act 46. Application at

⁷ Numerous impacts of the SRC's proposals are mandatory bargaining subjects even assuming the proposals themselves are permissive subjects. See, e.g., *Joint Bargaining Committee v. Pennsylvania Labor Relations Board*, 503 Pa. 236, 244 fn. 7, 469 A.2d 150, 154, Fn. 7 (1983).

¶ 9. Under these circumstances, the Commonwealth Court's decision in *Coatesville* is applicable. In *Coatesville*, the Commonwealth Court announced the following principle:

Even though a public employer is not statutorily required to negotiate regarding matters of inherent managerial rights, if it chooses to do so, absent contrary positive legislation, it is bound by the terms of a collective bargaining agreement.

978 A.2d at 417. The Commonwealth Court further explained that, while the school district in *Coatesville* is free in a subsequent contract not to negotiate over non-mandatory subjects of bargaining, "it cannot change the *status quo* between contracts by unilaterally stripping from the contract bargained for provisions." *Id.* at 418.

The Commonwealth Court's ruling is consistent with this Court's decision in *City of Pittsburgh*. It is also consistent with this Court's pronouncement that once a matter is included in a collective bargaining agreement, it becomes, like any other contractual provision, binding on the parties to the agreement. *Philadelphia v. District Council 33, AFSCME*, 528 Pa. 355, 361, 598 A.2d 256, 259-260 (1991); *Allentown v. Local 302, International Association of Firefighters*, 511 Pa. 275, 288, 512 A.2d 1175, 1181 (1986).

Similarly, *Coatesville* is supported by the landmark decision in *Pennsylvania Labor Relations Board v. State College Area School District*, 461 Pa. 494, 337 A.2d 262 (1975), where this Court set forth the rules for determining whether other legislation removed a subject from the scope of mandatory collective bargaining. Specifically, this Court stated that:

Items bargainable under Section 701 [of PERA] are only excluded under Section 703 [of PERA] where other applicable statutory provisions explicitly and definitively prohibit the public employer from making an agreement as to that specific term or condition of employment.

461 Pa. at 510, 337 A.2d at 270. There is no language in Act 46 which “explicitly and definitively” prohibits the SRC from “making an agreement” as to any of the subjects allegedly at issue in this case. The SRC and PFT have reached agreements on these subjects in prior collective bargaining agreements⁸ and have agreed to arbitrate disputes arising under the last agreement even though it has expired.

But now the SRC seeks to disrupt the *status quo* by altering the provisions of the expired collective bargaining agreement to which it voluntarily agreed. This is not an issue related to collective bargaining “arising under” § 696 of Act 46. It is an issue “arising under” PERA of whether unilateral changes can be made to the *status quo* created by a negotiated collective bargaining agreement pending the outcome of bargaining for a new agreement. The ruling requested by Petitioners, therefore, would adversely affect the rights of all public sector employees covered by PERA. Because this dispute does not fall within the scope of Section 27, this Court lacks exclusive jurisdiction over this dispute.

⁸ Nothing compelled the SRC to enter into these prior agreements. There was no strike threat in place by virtue of Act 46. Further, under PERA, an Employer is not required to agree to a proposal. 43 P.S. § 1101.701.

Petitioners' attempt to jockey their proposed Complaint into the scope of Section 27 is similar to the unsuccessful effort to invoke this Court's original jurisdiction in *Pennsylvania State Troopers Ass'n v. Gaming Control Board*, 591 Pa. 561, 920 A.2d 173 (2007) (while raising a constitutional issue, petition was not within the ambit of Section 1904 of the Gaming Act); *see also Stackhouse v. Pa. State Police*, 574 Pa. 578, 832 A.2d 1004 (2003) (notwithstanding the form of the complaint, the action against the Commonwealth and certain officers was in substance a tort action not within the original jurisdiction of the Commonwealth Court). For similar reasons, this Application should be rejected.

B. The Case is not Justiciable

Because Petitioners' proposed Complaint and the issues raised therein are not ripe for disposition, this Court should deny their Application. When determining whether a matter is ripe for judicial review, this Court declared that the relevant inquiry is "whether the issues are adequately developed for judicial review and what hardships the parties will suffer if review is delayed." *Township of Derry v. Pa. Dept. of Labor & Indus.*, 593 Pa. 480, 482, 932 A.2d 56, 58 (2007) (citations omitted). This Court has explained that "while subject matter jurisdiction concerns the power of a court to hear a claim, the doctrine of ripeness concerns the timing of a court's intervention in litigation." *Phila. Entm't & Dev. Partners, LP v. City of Philadelphia*, 594 Pa. 468, 480, 937 A.2d 385, 392 (2007) (citation omitted). "The basic rationale underlying the ripeness doctrine is 'to prevent the courts, through avoidance of premature adjudication, from entangling

themselves in abstract disagreements.” *Id.* To issue declaratory relief when a matter is not ripe results in a court rendering improper advisory opinions. *Id.* Accord, *Gulnac v. South Butler School District*, 526 Pa. 483, 487, 587 A.2d 699, 701 (1991).

While Petitioners assert that this Court should involve itself in a purported dispute about the SRC’s alleged authority under Act 46 to impose terms in the areas of seniority, recall, layoff, preparation time, and subcontracting of per diem substitute teacher, it has failed to exercise the administrative powers it claims to have. While the SRC has taken action to waive provisions of the Public School Code in other instances, there have been no SRC resolutions dealing with the very areas cited by Petitioners as needing “reform.” Thus, the SRC has failed to act in the areas over which it claims it has sole discretion to do so. Despite this failure, Petitioners still seek to have this Court exercise its jurisdiction over these matters. Having failed to exercise administrative authority, Petitioners now seek this Court’s involvement where there are no factual predicates from which a case or controversy arises. For this reason alone, this matter is not ripe. *See Phila. Entm’t & Dev. Partners*, 594 Pa. at 481, 937 A.2d at 393 (refusing to issue declaratory relief in a case in which parties sought to challenge a zoning ordinance which was never enforced.)

Petitioners also premise their right to relief on the fact that it has instituted changes in three areas, but the PFT filed grievances challenging those changes. First, after Petitioners laid off approximately 4,000 bargaining unit employees in response to a

budget crisis, they recalled “more than half” of these individuals without resort to their seniority order as required by the collective bargaining agreement. Second, Petitioners laid off critical staff such as guidance counselors and librarians, despite the fact that there is a contractual obligation to employ at least one guidance counselor in every school and have a library and a librarian in every school with at least 1,000 students. Third and finally, Petitioners violated the leveling provisions within the collective bargaining agreement—the process by which Petitioners adjust the numbers of teachers assigned to each school based on enrollment figures. While Petitioners claim that the PFT’s filing of grievances challenging these actions demonstrates that “an actual controversy exists among the parties” (see Application at p. 12, ¶ 32), they are grossly mistaken.

By admitting that they unilaterally imposed changes in these three areas (recall, staffing, and leveling), Petitioners admit that they do not need this Court to grant declaratory relief in order for them to take action. However, rather than accepting this proposition, they argue instead that the filing of grievances in these areas demonstrates otherwise. But, at this point in time, it is pure speculation as to what might occur in grievance and arbitration proceedings as they are, as of yet, not even scheduled for a hearing. The arbitrator may agree with Petitioners that these are matters over which grievances are not permitted. Alternatively, the arbitrator could find they are arbitrable, but rule against the PFT on the merits. (In fact, as noted above, the PFT has previously filed grievances challenging the actions of the SRC and lost). Finally, the issues could be resolved either through a negotiated successor agreement or a resolution of the

individual issue on a case by case basis. At this time, it is impossible to say how these matters will be resolved, or in favor of whom, with what type of remedy, if any. Such extreme lack of clarity demonstrates that they are not ripe for adjudication by this Court.

Rather than allow these grievances to proceed to whatever resolution occurs, Petitioners seek an advisory opinion from this Court, resolving these matters in their favor. Such a request, if allowed by this Court, would result in the Pennsylvania Supreme Court serving as the ultimate arbitrator of all contractual disputes between the parties for the foreseeable future. Furthermore, Petitioner's request to "short-cut" the grievance-arbitration procedure is contrary to the fact that nothing in Act 46: (1) abolishes the grievance and arbitration procedures of the parties' collective bargaining agreement or otherwise overrides those provisions; (2) undermines the well-established principal about the presumption of arbitrability of disputes arising from a collective bargaining agreement; or (3) destroys the principle that a labor arbitrator is the first judge of arbitrability of any dispute placed before him or her. See *Chester Upland School District v. McLaughlin*, 655 A.2d 621, 629 (Pa. Cmwlth. 1995), *aff'd per curiam* 544 Pa. 199, 675 A.2d 1211 (1996), citing *PLRB v. Bald Eagle Area School District*, 499 Pa. 62, 451 A.2d 671 (1982).

With respect to Petitioners' claim that they need declaratory relief because of the possibility that other as-yet unwritten grievances will be filed regarding unspecific future unilateral changes the SRC might make, those allegations are even more speculative

that their claim regarding already filed grievances. Petitioners allege that, at some time before the upcoming 2014-15 school year, they intend to make unilateral changes concerning (1) transfers and assignments, (2) order and timing of layoffs, and (3) order of recalls from layoff status. But nothing in their Application or proposed Complaint offers any guidance as to the precise nature of what those changes may be. Without such detail, it is impossible to say whether or not the PFT will challenge such changes through the grievance and arbitration procedures or what the results of any such challenge would be, if they occur. Any involvement at this time certainly involves this Court in rendering advisory opinions about matters that have no factual details and involve speculative wrongs, if any.

Finally, Petitioners alleged hardship is far too uncertain to justify the relief sought. In its Application, Petitioners suggest that the harm they face arises from the grievances filed by the PFT and those it may file in the future. Effectively, Petitioners claims that any possible, future relief—whether monetary or injunctive—constitutes harm to them justifying this Court's involvement. However, such claims constitute speculative future harm that does not justify this Court exercise of its authority over this matter.

The SRC simply does not want to be burdened by the negotiated grievance and arbitration procedures, despite the fact that there is nothing in Act 46 that relieves them of this obligation. The possibility that Petitioners might lose at arbitration and have a remedy imposed against them does not constitute a harm to avoid finding their claims

lack ripeness. In fact, the existence of arbitration is grounds for this Court to not exercise jurisdiction over this matter. See *County of Berks, ex. rel. Baldwin v. PLRB*, 544 Pa. 541, 533, 678 A.2d 355, 361 (1996) ("It is fundamental that prior to resorting to judicial remedies, litigants must exhaust all the adequate and available administrative remedies that the legislature has provided.") Because this matter is not ripe for disposition at this time, this Court should deny Petitioners' Application.

C. If the Court has Jurisdiction, It Should Decline to Exercise It

Both Pa. R.A.P. 3307 and § 27 of Act 46 provide that the Court can take what action it deems appropriate when an application is made invoking its original jurisdiction. In this case, declining to exercise jurisdiction, assuming it exists, would be the prudent course of action.

On at least two prior occasions, this Court has declined to exercise jurisdiction over actions arising under Act 46 involving labor disputes. As Petitioners note (Application at ¶ 28), in 2000, the PFT challenged the constitutionality of Act 46, seeking among other things, a declaration as to the constitutionality of the Act. *Kirsch v. School District of Philadelphia*, No. 150 EM 2000. The Court ordered the parties to submit briefs on the constitutional issue as well as whether the matter was ripe for declaratory judgment. Upon learning the School District and PFT had reached a collective bargaining agreement, the Court dismissed the declaratory judgment complaint as moot

in a per curiam order. *Kirsch v. School District of Philadelphia*, 563 Pa. 345, 761 A.2d 540 (2000). Given the ongoing bargaining and pending grievances, the current dispute may well become moot as well.

Similarly, in June 2011, the SRC and the School District filed an Application for Extraordinary Relief under 42 Pa. C.S. § 726 and simultaneously an Exclusive Jurisdiction Complaint for Declaratory Judgment under § 27. A copy of the docket entries in this case, No. 80 EM 2011, are attached hereto as Exhibit A. In those filings, the SRC and School District sought a declaration from this Court that under Act 46, the SRC has the power to lay off teachers out of seniority order – one of the requests made in the instant Application. By Order of June 15, 2011, however, this Court denied the Application for Extraordinary Relief, as well as the Ancillary Action for Declaratory Relief. *Philadelphia Federation of Teachers, Local 3 v. School District of Philadelphia*, 610 Pa. 452, 21 A.3d 697 (2011). It should do so again in this case.

Last year, this Court declined to exercise its original jurisdiction in a labor dispute between the City of Philadelphia (“City”) and AFSCME, District Council 33 (“District Council 33”), which is remarkably similar to this dispute. Specifically, in *City of Philadelphia v. AFSCME District Council 33*, No. 27 EM 2013, the City sought to invoke this Court's extraordinary jurisdiction under its King's Bench powers and/or 42 Pa.C.S. § 726 to resolve what the City claimed to be an unprecedented issue of public importance. The petition alleged that the City and District Council 33 were at impasse

after bargaining for nearly four years for a successor contract following the expiration of a prior agreement. The City wanted the Court to declare that the City, as employer, had the power and the need, given its alleged fiscal crisis, to unilaterally impose certain terms and conditions of employment notwithstanding the labor rule announced by the Commonwealth Court in *Philadelphia Housing Authority v. PLRB*, 153 Pa. Cmwlth. 20, 620 A.2d 594 (1993). After consideration of the briefs submitted by the parties and by multiple *amici curiae*, the Court, in a per curiam Order of June 7, 2013, denied the Application for Extraordinary Relief. Mr. Chief Justice Castille filed a dissenting statement. A copy of the Court's docket entries in that case are attached hereto as Exhibit B.

The Court should deny the present Application which also seeks to have this Court overrule a decision of the Commonwealth Court concerning the right of a public employer to take unilateral action and alter the *status quo*. Indeed, the arguments for declining to hear this case are stronger in that, unlike the City of Philadelphia, the SRC does not claim it has reached impasse in its negotiations with the PFT. As outlined above, in the past, the parties have successfully negotiated collective bargaining agreements under the umbrella of Act 46 without the threat of a strike. Prior disputes over the application of those collective bargaining agreements have been resolved through the mutually agreed upon arbitration procedure. This history strongly suggests that there is no need for this Court to weigh in on this labor dispute at this time.

There are additional reasons why this Court should stay its hand. First, Petitioners claim that they need immediate relief because of the “unprecedented gap between actual funding levels and the amount needed to maintain prior year service levels.” Application at ¶ 5. Yet, the proposed “reforms” do not have economic implications.⁹

Secondly, given the vagueness and breadth of the “reforms” as described by Petitioners in their Application and Proposed Complaint, a record would need to be created to ascertain the specific proposals the SRC seeks to impose, the impact of those proposals, the degree to which they depart from provisions or practices under the collective bargaining agreement that the SRC has agreed to for years, etc. Moreover, a hearing will be necessary because the Federation disputes many allegations in the proposed Complaint.

Thirdly, there are substantial legal questions implicated if this case proceeds, not least of which is the constitutionality of Act 46. That issue has never been litigated. The substantial constitutional issues raised by the PFT and a coalition of parents, students and other organizations in the 2000 litigation will be ripe for adjudication if the SRC is permitted to file its proposed Complaint. This Court traditionally seeks to avoid constitutional issues if possible. *See Mt. Lebanon v. County Bd. of Elections*, 470 Pa.

⁹ Perhaps the one exception is the request by the SRC to deviate from seniority in layoffs thus permitting it to lay off more highly paid senior teachers over lower paid junior teachers arguably in violation of the state and federal age discrimination laws.

317, 322, 368 A.2d 648, 650 (1977). Declining jurisdiction would avoid this inevitable constitutional adjudication. See, e.g., *Cherry v. City of Philadelphia*, 547 Pa. 679, 692 A.2d 1082 (1977) (where this Court found the claim not justiciable and thus avoided the constitutional issue it raised.)

In short, assuming jurisdiction vests, this Court should, exercising its discretion, decline to accept it.


V. CONCLUSION

For the reasons set forth above, the Application for Leave to File Original Process in the Nature of a Complaint for Declaratory Judgment should be denied.

Respectfully submitted,

WILLIG, WILLIAMS & DAVIDSON

By:




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Dated: April 3, 2014

Counsel for Philadelphia Federation of
Teachers Local 3, AFT, AFL-CIO

VERIFICATION

I am the President of the Philadelphia Federation of Teachers, Local 3, AFT, AFL-CIO, and as such I am authorized to make this verification on Respondents' behalf. The facts set forth in the foregoing Response to the Application of Petitioners for Leave to File Original Process are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. § 4904 related to unsworn falsification to authorities.



Jerry Jordan
President
Philadelphia Federation of Teachers

Dated: April 2, 2014

EXHIBIT A

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 80 EM 2011

Page 1 of 4

March 24, 2014

CAPTION

Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan, Respondents

v.

School District of Philadelphia, Robert L. Archie, Jr., Denise McGregor Armbrister, Joseph A. Dworetzky, and Johnny Irizarry as Members of the School Reform Commission, and Arlene Ackerman, Superintendent of Schools, Petitioners

CASE INFORMATION

Initiating Document: Application for Extraordinary Relief

Case Status: Closed

Journal Number:

Case Category: Civil

Case Type(s): Contract

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

Attorney: Feldman, A. Richard
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 Pro Se: No
 IFP Status:

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 Pro Se: No
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 Pro Se: No
 IFP Status:

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 80 EM 2011

Page 2 of 4

March 24, 2014

COUNSEL INFORMATION

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 Willig, Williams & Davidson
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 Philadelphia, PA 19103
 Phone No: (215) 656-3600
 Representing: Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan, Respondent
 Pro Se: No
 IFP Status:

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
06/08/2011	Extraordinary / Plenary Jurisdiction	53.50	06/09/2011	2011-SUP-E-001400	53.50

AGENCY/TRIAL COURT INFORMATION

Court Below: Philadelphia County Court of Common Pleas
 County: Philadelphia Division: Philadelphia County Civil Division
 Date of Agency/Trial Court Order:
 Order Type:
 OTN(s):
 Lower Ct Docket No(s): 00096 June T. 2011
 Lower Ct Judge(s):

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
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Record Remittal:

DISPOSITION INFORMATION

Related Journal No: Judgment Date:
 Category: Decided Disposition Author: Per Curiam
 Disposition: Order Denying Extraordinary Jurisdiction Disposition Date: June 15, 2011
 Dispositional Filing: Author:
 Filed Date:

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 80 EM 2011

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March 24, 2014

DISPOSITION INFORMATION

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
June 8, 2011	Application for Extraordinary Relief	Petitioner	School District of Philadelphia, et al.
June 8, 2011	Ancillary Declaratory Relief Filed	Petitioner	School District of Philadelphia, et al.
Comments: Exclusive Jurisdiction Complaint for Declaratory Judgment and Relief in the Nature of a Writ of Mandamus and/or Prohibition			
June 9, 2011	Plaintiff's Emergency Motion to Expedite All Proceedings	Petitioner	School District of Philadelphia, et al.
June 9, 2011	Application for Stay Of Order And Of Any Further Proceedings In the Court of Common Pleas	Petitioner	School District of Philadelphia, et al.
June 10, 2011	Answer to Application for Extraordinary Relief	Respondent	Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan
Comments: Appendix Related to Filings of Philadelphia Federation of Teachers, attached.			
June 10, 2011	Defendant Philadelphia Federation of Teachers Answer to The Complaint and New Matter	Respondent	Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan
June 10, 2011	Response to Emergency Motion to Expedite All Proceedings	Respondent	Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan
June 10, 2011	Answer to Application for Stay	Respondent	Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan
Comments: Answer to Petitioners' Application for Stay of Order and Of Any Further Proceedings In The Court of Common Pleas			

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 80 EM 2011

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March 24, 2014

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
June 10, 2011	Brief In Response to Application for Stay	Respondent	Philadelphia Federation of Teachers, AFT, Local 3, AFL-CIO, and Jerry Jordan
Comments: Respondents' Brief In Response to Application for Stay of Any Further Proceedings In The Court of Common Pleas			
June 13, 2011	Order Granting Ancillary Application for Stay		Baer, Max
Comments: AND NOW, this 13th day of June, 2011, the hearing scheduled before the Court of Common Pleas of Philadelphia scheduled for June 14, 2011 is temporarily STAYED pending a complete review of the filings before this Court.			
June 13, 2011	Order Exited		Office of the Prothonotary
June 15, 2011	Order Denying Extraordinary Jurisdiction		Per Curiam
Comments: AND NOW, this 15th day of June, 2011, the Single Justice Order entered in the above matter on June 13, 2011 is VACATED. Petitioners' Emergency Application for Extraordinary Relief, Ancillary Action for Declaratory Relief, Motion to Expedite All Proceedings, and Application for Stay of Order and Any Further Proceedings in the Court of Common Pleas is DENIED.			
Justice McCaffery did not participate in the consideration or decision of this matter.			
June 15, 2011	Order Exited		Office of the Prothonotary
July 11, 2011	Reconsideration Time Expired/Case Closed		Office of the Prothonotary

EXHIBIT B

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

Page 1 of 8

March 27, 2014

CAPTION

City of Philadelphia, Petitioner

v.

American Federation of State, County and Municipal Employees, AFL-CIO, District 33, Respondent

CASE INFORMATION

Initiating Document: Application for Extraordinary Relief

Case Status: Closed

Journal Number:

Case Category: Civil

Case Type(s): Contract

CONSOLIDATED CASES

RELATED CASES

COUNSEL INFORMATION

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Pro Se: No
IFP Status:

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Phone No: (215) 864-8221
Representing: City of Philadelphia, Petitioner
Pro Se: No
IFP Status:

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

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March 27, 2014

COUNSEL INFORMATION

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 Pro Se: No
 IFP Status:
 Representing: Pa School Boards Association, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pa State Association of Boroughs, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: PA State Association of Township Commissioners, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: PA State Association of Township Supervisors, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pennsylvania Municipal League, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:

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 Representing: County Commissioners Association of PA, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pa School Boards Association, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pa State Association of Boroughs, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: PA State Association of Township Commissioners, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: PA State Association of Township Supervisors, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: Pennsylvania Municipal League, Petitioner Amicus Curiae
 Pro Se: No
 IFP Status:

10:03 A.M.

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

Page 3 of 8

March 27, 2014

COUNSEL INFORMATION

Attorney: Spear, Samuel L.
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Respondent
Pro Se: No
IFP Status:

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

Page 4 of 8

March 27, 2014

COUNSEL INFORMATION

Attorney:	Ludwig, Bruce Michael
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Representing:	AFSCME Council 13, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	AFSCME DISTRICT COUNCIL 47, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	AFT Pennsylvania, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Association of Pennsylvania State College and University Faculties, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Pennsylvania AFL-CIO, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Pennsylvania Conference of Teamsters, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Pennsylvania State Building and Construction Trades Council, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Pennsylvania State Education Association, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Pennsylvania State Legislative Board, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	PHILADELPHIA FEDERATION OF TEACHERS, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	Seiu Healthcare Pennsylvania, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	SEIU Local 32BJ, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	SEIU Local 668, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	SMART, Respondent Amicus Curiae
Pro Se:	No
IFP Status:	
Representing:	UNITE HERE Local 634, Respondent Amicus Curiae

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

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March 27, 2014

COUNSEL INFORMATION

Pro Se: No
 IFP Status:
 Representing: United Food and Commercial Workers, Local 1776, Respondent Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: United Mine Workers of America, Respondent Amicus Curiae
 Pro Se: No
 IFP Status:
 Representing: United Steelworkers of America, Respondent Amicus Curiae
 Pro Se: No
 IFP Status:

FEE INFORMATION

Fee Dt	Fee Name	Fee Amt	Receipt Dt	Receipt No	Receipt Amt
02/05/2013	Extraordinary / Plenary Jurisdiction	53.50	02/07/2013	2013-SUP-E-000355	53.50

AGENCY/TRIAL COURT INFORMATION

Court Below:
 County: Division:
 Date of Agency/Trial Court Order:
 Order Type:
 OTN(s):
 Lower Ct Docket No(s):
 Lower Ct Judge(s):

ORIGINAL RECORD CONTENT

Original Record Item	Filed Date	Content/Description
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Record Remittal:

DISPOSITION INFORMATION

Related Journal No:	Judgment Date:
Category: Decided	Disposition Author: Per Curiam
Disposition: Order Denying Application for Extraordinary Relief	Disposition Date: June 7, 2013
Dispositional Filing: Order	Author: Per Curiam
Filed Date: June 7, 2013	
Justice: Castille, Ronald D.	Vote: Dissent

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
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Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

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March 27, 2014

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 5, 2013	Petitioner's Application for Extraordinary Relief	Petitioner	City of Philadelphia
February 19, 2013	Motion for Leave to File Brief of Amici Curiae In Support of Petitioner	Petitioner Amicus Curiae	County Commissioners Association of PA
		Petitioner Amicus Curiae	Pennsylvania Municipal League
		Petitioner Amicus Curiae	Pa State Association of Boroughs
		Petitioner Amicus Curiae	PA State Association of Township Commissioners
		Petitioner Amicus Curiae	PA State Association of Township Supervisors
		Petitioner Amicus Curiae	Pa School Boards Association
February 19, 2013	Answer to Application for Extraordinary Relief	Respondent	American Federation of State, County and Municipal Workers, District Council 33, AFL-CIO

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

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March 27, 2014

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
February 19, 2013	Amicus Brief in Support of Respondents Opposing City of Phila's Application for Extraordinary Relief		
		Respondent Amicus Curiae	Pennsylvania AFL-CIO
		Respondent Amicus Curiae	AFSCME Council 13
		Respondent Amicus Curiae	AFSCME DISTRICT COUNCIL 47
		Respondent Amicus Curiae	AFT Pennsylvania
		Respondent Amicus Curiae	Association of Pennsylvania State College and University Faculties
		Respondent Amicus Curiae	Pennsylvania Conference of Teamsters
		Respondent Amicus Curiae	Pennsylvania State Building and Construction Trades Council
		Respondent Amicus Curiae	Pennsylvania State Education Association
		Respondent Amicus Curiae	Pennsylvania State Legislative Board
		Respondent Amicus Curiae	SMART
		Respondent Amicus Curiae	PHILADELPHIA FEDERATION OF TEACHERS
		Respondent Amicus Curiae	Seiu Healthcare Pennsylvania
		Respondent Amicus Curiae	SEIU Local 32BJ
		Respondent Amicus Curiae	SEIU Local 668
		Respondent Amicus Curiae	United Food and Commercial Workers, Local 1776
		Respondent Amicus Curiae	UNITE HERE Local 634
		Respondent Amicus Curiae	United Mine Workers of America
		Respondent Amicus Curiae	United Steelworkers of America
February 26, 2013	No Answer Letter Filed	Respondent	American Federation of State, County and Municipal Workers, District Council 33, AFL-CIO
March 1, 2013	No Answer Letter Filed	Petitioner	City of Philadelphia
March 5, 2013	Motion of Pet. for leave to File Reply Memorandum in Support of Application for Extraordinary Relief	Petitioner	City of Philadelphia

Supreme Court of Pennsylvania



Miscellaneous Docket Sheet

Docket Number: 27 EM 2013

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March 27, 2014

DOCKET ENTRY

Filed Date	Docket Entry / Representing	Participant Type	Filed By
March 21, 2013	No Answer Letter Filed	Respondent	American Federation of State, County and Municipal Workers, District Council 33, AFL-CIO
June 7, 2013	Order Denying Application for Extraordinary Relief		Per Curiam
Comments: AND NOW, this 7th day of June, 2013, the Motion for Leave to File Brief of Amici Curiae in Support of the Petitioner City of Philadelphia and the Motion for Leave to File a Reply Memorandum are GRANTED, and the Application for Extraordinary Relief is DENIED.			
Mr. Chief Justice Castille files a Dissenting Statement.			
June 7, 2013	Order Exited		Office of the Prothonotary
June 28, 2013	Reconsideration Time Expired/Case Closed		Office of the Prothonotary

IN THE SUPREME COURT OF PENNSYLVANIA

NO. 47 EM 2014

THE SCHOOL REFORM COMMISSION and THE SCHOOL DISTRICT OF
PHILADELPHIA,

Petitioners

v.

PHILADELPHIA FEDERATION OF TEACHERS, LOCAL 3, AFT, AFL-CIO,

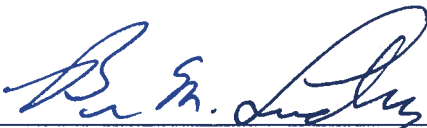
Respondent

PROOF OF SERVICE

I hereby do certify that I am this day serving a true and correct copy of the foregoing Response upon the persons and in the manner indicated below, which service satisfies the requirement of Pa.R.A.P. 121:

VIA HAND DELIVERY:

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A. Richard Feldman, Esquire
Lisa A. Barton, Esquire
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Dated: April 3, 2014