

COMMONWEALTH COURT OF PENNSYLVANIA

READING SCHOOL DISTRICT,	:	
Petitioner	:	No. _____
	:	
v.	:	Commonwealth
	:	Docket _____, _____
PENNSYLVANIA DEPARTMENT OF	:	
EDUCATION,	:	
Respondent	:	

PETITION FOR REVIEW

1. This Court has jurisdiction over this matter by reason of 42 Pa. C.S.A. § 761 (original jurisdiction) and 42 Pa. C.S.A. § 763 (direct appeals from governmental agencies).
2. Reading School District is a duly organized school district for the Commonwealth of Pennsylvania serving the geographical limits of the City of Reading, Pennsylvania with a mailing address of 800 Washington Street, Reading, PA 19601-3691.
3. The Pennsylvania Department of Education is a department of the executive branch of the government of the Commonwealth of Pennsylvania with a mailing address of 333 Market Street, Harrisburg, PA 17101.
4. The Pennsylvania Department of Education is a state educational agency as defined by federal legislation known as the No Child Left Behind Act, 20 USC § 6301 et seq. (the "Act")

and is charged with the responsibility of warning and sanctioning local schools for failing to make "adequate yearly progress" as defined by the Act.

5. The Pennsylvania Department of Education has designated six (6) individual schools in the Reading School District for sanctioning status for failure "adequate yearly progress" and has placed seven (7) additional schools on the "Warning List" which will result in sanctions for these schools if they fail to make "adequate yearly progress" in the 2003-2004 school year.

6. The Reading School District appealed the Respondent's determination of sanctions and warnings pursuant to the Respondent's internal procedures.

7. On October 15, 2003, an appeal hearing was held in the offices of the Respondent before M. Patricia Fullerton, hearing officer, appointed by the Respondent to review appeals of sanctions and warnings imposed pursuant to the No Child Left Behind Act. The record of that hearing has been transcribed and establishes in part, the following:

A. Sixty-four percent (64%) of the student population of Reading School District is Hispanic;

B. Eleven percent (11%) of the student population of Reading School District is classified as having "limited English proficiency";

C. The Pennsylvania Department of Education has provided no evaluation examinations in Spanish for the purpose of determining "adequate yearly progress";

D. The Reading School district has one of the weakest tax bases in the Commonwealth and is currently operating in a deficit position; and

E. The Pennsylvania Department of Education has provided Reading School District with no financial assistance to facilitate implementation of the sanctions imposed under the No Child Left Behind Act.

8. On November 17, 2003, the Secretary of Education for the Commonwealth of Pennsylvania, Vicki L. Philips, issued Findings of Fact and Conclusions of Law denying the appeal of Reading School District.

9. Petitioner objects to the decision of Secretary Philips for the following reasons:

A. Respondent has failed to justify statistically the size of disaggregated subgroups required to make "adequately yearly progress" as required by regulation and law;

B. Respondent has failed to provide examinations for evaluation of "adequately yearly progress" in Spanish;

C. Respondent has failed to provide adequate technical assistance, including direct financial assistance, thus, imposing on the Petitioner, unreimbursed financial burdens as prohibited by 62 USC § 7907(a) and other provisions of the Act and the regulations promulgated to implement it.

10. Respondent is hereby notified to plead to this petition for review within thirty (30) days from service hereof or a default judgment may be entered against it.

WHEREFORE, Petitioner requests that the Court review and set aside the aforesaid determinations of the Department of Education and in the alternative:

(1) Prohibit the Respondent from sanctioning or warning Petitioner for failure to make "adequately year progress" in disaggregated subgroups until the department establishes the statistical basis for determining the size of those disaggregated subgroups.

(2) Prohibit the Respondent from sanctioning the Petitioner until Respondent has provided tests used for evaluating "adequately yearly progress" in Spanish.

(3) Prohibit the Respondent from sanctioning the Petitioner until Respondent has provided technical financial assistance which fully funds all costs of implementing the sanctions imposed pursuant to the No Child Left Behind Act, 20 USC § 6301 et seq.

Respectfully submitted,

GOLDEN ♦ MASANO ♦ BRADLEY

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