

IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL DIVISION

IN RE: Appointment of a Receiver : No.: 12-9781
for the Chester Upland School District :
:

RULE

AND NOW, this 3rd day of **September, 2015**, A Rule is issued upon the Receiver, the Chester-Upland School District and the Pennsylvania Department of Education to Show Cause Why the Receiver has not yet submitted a revised Financial Recovery Plan that will wholly and adequately bring about financial recovery as mandated by Act 141, a time frame for submitting the revised Plan and a **status report** to the Court on the progress of the development of the Plan which needs to be truly comprehensive and include a target date for return of the Chester-Upland District to the duly elected School Board and include, consider and answer in the comprehensive Plan the following questions which will then give it the kind of detail and gravitas expected of a Plan to be submitted to this Court for approval and anticipated by Act 141:

1. What will it cost to run the Chester-Upland School District in 2015-2016 so as to leave it with a zero budget deficit at the end of 2015-2016?
2. Did the Governor budget this sum for the Chester-Upland children less the sum he asks this Court to take from the brick and mortar charters? If not, why not if the time is now to resolve once and for all the crisis? Wouldn't that then be the bold plan the Receiver needs in this the third year of recovery which would in reality end this crisis now?
3. How much did the Governor budget for 2015-2016 for Chester-Upland?
4. What was the basic education funding budgeted by the Pennsylvania Department of Education (PDE) for Chester-Upland school children for 2013-2014? How much was this per student?

5. In the opinion of the PDE and Chester-Upland and the Receiver, were Chester-Upland school children underfunded or overfunded in 2013-2014? If so, by how much?

6. What was the basic education funding from the PDE for 2014-2015? How much was this per student?

7. Were the Chester-Upland school children underfunded or overfunded in 2014-2015? If so, by how much?

8. What in the opinion of the PDE and Chester-Upland and the Receiver would be adequate funding for these children in 2015 -2016 without the change in the Charter formula?

9. What budget deficit, if any, would that leave at the end of the fiscal year?

10. What would be adequate funding in 2015-2016 assuming the change in the Charter formula? What budget deficit, if any, would that leave at the end of the fiscal year?

11. In combination with a change in formula as requested for the brick and mortar Charter School payments, what level of funding will leave Chester-Upland with a zero budget deficit at the end of the 2015-2016? Was this level of funding requested in the Administration's budget? If not, why not? If the funding has not been requested, can the budget request allotted to Chester-Upland be revised now to request a sum adequate to reduce the debt to zero since this is the year a proposal is on the table for a Shale SeveranceTax to support education?

- Will there be additional hidden, accounting debt carried somewhere on Chester-Upland books even after the zero budget balance and if so, what is the sum and what is that sum attributable to and what in the plan addresses paying these sums

12. What is the basic education funding requested by the Administration for 2015-2016 for Chester-Upland? How much is this per student for 2015-2016 projected enrollments? In the opinion of the PDE and Chester-Upland and the Receiver, does what the Administration requested in the State Budget underfund the Chester-Upland School Children for 2015-2016?

- Does the PDE and Chester-Upland and the Receiver believe Chester-Upland was overfunded in the years 2012 through this coming fiscal year 2015-16?
- If the PDE funds the Chester-Upland School District so that, in combination with the Chester Charter brick and mortar Court Legislative formula change it asks this Court to order, Chester-Upland will have a zero budget deficit at the end of the year. Will the PDE consider that it overfunded Chester school children and is it throwing money at the problem of educating Chester children in the high quality manner of surrounding school districts?

13. How does this rate of increase (or decrease, or no increase) for 2015-2016 requested in the State budget compare to what was requested for funding for other school districts in the Commonwealth?

- If there is an increase in funding, where does the Receiver and Chester-Upland apply that funding, dollar for dollar in fiscal year 2015-2016?

14. What would be adequate funding in 2016-2017 without the change in the Charter formula? What would be adequate funding in 2016-2017 assuming the change in the Charter formula and would this leave the district with a zero deficit at the end of 2016-2017? What does the Plan project it will cost to run the district in 2016-2017?

15. Isn't underfunding one of the fundamental reasons the Department of Education needed to infuse 75 million dollars into the District, not for mismanagement, but because Chester-Upland has been underfunded by over 75 million dollars in each administration's budget for the last six years?

- Does the Administration and the PDE and Chester-Upland and the Receiver believe that the District has mismanaged its funds and failed its students since 2012? If so, how exactly by pointing to the record of this particular recovery (participated in fully by the Administration, the PDE, Chester-Upland and the

Receiver) which record supports and indicates fiscal responsibility and administrative, facility, security and educational turnaround?

26. Will this underfunding continue in 2015-2016 and into 2016-2017 so that the state needs to "give" or "infuse" or "loan" Chester-Upland additional funds over and above the budget both in 2015-2016 and 2016-2017 with the state's implication it is providing emergency charity to a poorly run district rather than the reality of payments to a properly run district that has disadvantaged properties with significant uncollectible taxes?

27. If the time is now for fiscal recovery, how then does the Recovery Plan fix Chester-Upland, "once and for all" if it is left by the state with unsurmountable and crippling deficits in 2015-2016 and 2016-2017 even with the proposed 40 million dollars of give backs to the State by the Charters for these two years? **(Is there any guarantee that the 40 million dollars in give backs by the brick and mortar charters to the State will be applied dollar for dollar to Chester-Upland and not be used to reduce or be included in the Basic Education Funding budgeted to Chester-Upland?)**

28. Doesn't this approach (a plan that leaves the District with a 20 million dollar debt at the end of the year) by the Administration, the PDE, and the legislature continue to put Chester-Upland in an underfunded, deficit status that continues to create the false appearance of mismanagement rather than acceptance and ownership of the fact that the District is currently and continually underfunded by the Administration, the Legislature and the Department of Education given Chester-Upland's property tax base and realistic measure of collectibles? Isn't the fix that was proposed not a fix but a mere parody and variation on a theme of all the so-called fixes of the past?

- Will the "forensic" audit requested and approved give a complete review of collectibles in conjunction with consultation with the City of Chester and Upland and the County Tax Bureau to determine what properties have been abandoned and could be taken by the

City by tax sale if it so chose, so that there is a realistic assessment of the tax base and realistic assessment of taxes collectible rather than some unhelpful statement as to what is being carried on the books of the City's property tax delinquency rolls and will those delinquency rolls be matched up with future billing to get an intellectually honest assessment of future receivables?

29. Does the PDE, assuming its request to change the Charter School formula is in fact granted, believe Chester-Upland to be adequately funded for 2015-2016 despite leaving it with a 12 million dollar budget deficit?

30. Where does the PDE go with Chester-Upland's debt and unresolved crisis once it secures a Charter formula change that leaves the District holding a 12 million dollar unfunded debt (and an outstanding loan of 10 million dollars)? Isn't this another crisis built right into the Plan that is supposed to address fiscal recovery and not guarantee another fiscal crisis before the year is out?

31. Doesn't the failure by the Administration, PDE, the Receiver and Chester-Upland to plan for, fight for, request for and lobby the Legislature for a level of funding for Chester-Upland that the legislature mandated in Act 141 that will leave it without a deficit at the end of 2016 throw it's parents and students once again as a soccer ball into the arena to be kicked around with a built in cash crisis before the end of 2015-2016 and at the beginning of 2016-2017, with threats of schools not opening, and the trumped up old saw of the appearance of fiscally and educationally mismanaged schools as compared to Charters and every ideologue carrying a trite slogan from opposite sides of the spectrum scoring points on the backs of these children but without any of them offering to provide or even request the proper and adequate funding (over and above changes to the Charter School formula) needed to right the ship?

- Does the Administration and the PDE consider funding that would leave the Chester-Upland children and parents with a zero budget deficit at the end of 2015-2016 as throwing money at the problem?
- Would providing the district with a suitable high school and other suitable facilities be throwing money at the problem as well?
- Does the plan provide for and address the facilities and their suitability as an environment for providing a high quality education for these Chester-Upland children?
- Must the quality of education of the children of Chester-Upland's offer significantly because they so happen to live in an area where property values and realistic tax collectibles cannot support the public schools?

32. Doesn't this year in and year out school in crisis, in danger of not opening approach have the effect of encouraging parents to enroll more of their children in Charters just when it appeared Chester-Upland had turned the ship around and was having students re-enroll as was envisioned by Act 141 and in fact, doesn't it lead to further financial instability? Isn't the time to fix this now?

33. What did Chester-Upland receive to educate special education students per student in 2014-2015?

34. How many of its special education students were in each tier as listed for December 2014 as filed with the Commonwealth?

35. What will Chester-Upland project to spend per student on special education students in 2015-2016?

36. Assuming that the formula is changed for funding Charter Schools in Chester-Upland as requested for the Commonwealth AND funding for the 8.8 million dollars still due and owing to the Charters for 2014-2015 are approved and released, will the Chester-Upland budget deficit at the end of the fiscal year 2015-2016 still be 12 million dollars?

- With this deficit when does the district project it will run out of money in 2015-2016?
- Did the Commonwealth in its budget propose to close this gap in the budget to do away with it once and for all and is this proposal included in a revised Recovery Plan so that the District could be declared recovered this year and turned back to the duly elected School Board as envisioned by Act 141?
- Even if granted a change to the Charter School formula, Chester-Upland still proposes in its budget and its plan to run out of cash in 2015-2016. What month is that projected to occur even with the change in formula?
- **So instead of facing the cash crisis in December, we face the cash crisis in April, how then does leaving a 12 million dollar deficit fix the problem now and not just once again kicking the crisis down the road for another day and another headline scaring parents, children and students about the currently, unfounded claims of mismanagement of Chester-Upland and thereby chasing more children into the Charters?**
- Will the District stop paying vendors in April 2016?
- **Will it stop paying teachers, or will the PDE be requested to provide another extra-budgetary "infusion" and if so, why not put the so-called "infusion" into the budget now, or does the PDE believe this would be overfunding a poorly managed District?**
- Who does Chester-Upland specifically project the creditor-vendors to be and what specific sums will be owed and for what services performed or materials supplied?
- Moving forward after 2015-2016, how does the PDE and Chester-Upland plan to address this 12 million dollar shortfall at the end of 2015-16 other than "chip away at it" as was offered as a "plan" by the PDE's counsel?

- What does “chip away at it “mean in the real terms of chipping away at anywhere from 12 million dollars to 20 million dollars, and what is the projected shortfall for the end of 2016-2017? How many years does the “chip away” plan take to chip away at 12-20 million dollars?
- Does chip away at 12 million or 20 million mean that the Administration expects to find 20 million dollars worth of mismanagement or does it mean it will seek to re-negotiate staff and employee contracts including pension and other benefits?
- If we are carrying projected shortfalls forward, and having millions of dollars of debt at the end of each fiscal year even with good management, accounting, accountability, teaching, and student score results comparable to the Charters, isn't the District being underfunded by the PDE, and isn't the Commonwealth under Act 141 mandated by the legislature to request in its budget the full amount of funding to fix the problem for the Chester-Upland parents and children “now” to “ensure the delivery of effective educational services to all students enrolled in a school district in financial recovery” ?
24 P.S. Section 6-622-A, Commitment to Ensure Delivery of Effective Educational Services

37. WHAT COMBINATION OF 1. THE CHANGE TO BRICK AND MORTAR CHARTER SCHOOLS FORMULA AND 2. STATE EDUCATIONAL FUNDING, WILL ALLOW CHESTER-UPLAND SHOW A ZERO BUDGET BALANCE AT THE END OF 2015-2016? DOES THIS COMBINATION ONCE AND FOR ALL FIX CHESTER-UPLAND NOW? HAS THIS LEVEL OF FUNDING BEEN REQUESTED IN THE STATE BUDGET NOW FOR CHESTER-UPLAND AND IF NOT, WHY NOT?

38. HOW DOES WALKING AWAY FROM CHESTER-UPLAND WITH A CHANGED CHARTER FORMULA AND LEAVING CHESTER-UPLAND WITH ANYWHERE FROM A 12 MILLION DOLLAR TO 20 MILLION DOLLAR SHORTFALL AT THE END OF THE 2015-2016

SCHOOL YEAR SOLVE THE FUNDING PROBLEM NOW FOR CHESTER-UPLAND PARENTS AND STUDENTS, FACULTY AND SUPPORT STAFF, AND THE CHESTER COMMUNITY AT LARGE? DOES THIS MAKE SENSE TO LEAVE SUCH A CRIPPLING, CRISIS GUARANTEED SHORTFALL AT THE VERY TIME A SHALE SEVERANCE TAX IS BEING NEGOTIATED FOR THE PURPOSE OF SUPPORTING EDUCATION ESPECIALLY IN DISTRICTS WHERE THE PROPERTY VALUES AND COLLECTIBLES ARE INSUFFICIENT TO SUPPORT A HIGH QUALITY EDUCATION?

39. CHESTER-UPLAND AND THE DEPARTMENT OF EDUCATION AND THE RECIEVER HAVE ASKED THIS COURT TO ISSUE AN ORDER THAT WOULD BE EXTRAORDINARY AND SINGULARLY UNIQUE IN THE ENTIRE HISTORY OF PENNSYLVANIA JURISPRUDENCE IN THAT IS ASKING THIS COURT TO INTERPRET A STATUTE AS WRITTEN TO ALLOW IT TO OVERRIDE THE CURRENT LAW OF THIS COMMONWEALTH AS ESTABLISHED BY ITS ELECTED LEGISLATORS AND SUPPLANT IT WITH THE COURT'S OWN ORDERED FORMULA, AND IN THAT CONTEXT DOESN'T THE CHESTER COMMUNITY NEED AND DESERVE ALSO A FULL COMPREHENSIVE PLAN THAT ANSWERS ALL THESE QUESTIONS AND PROVIDE THEM WITH ASSURANCE THAT THEIR WILL BE A ZERO BUDGET DEFICIT AT THE END OF 2015-2016 SO THAT THE RECIEVER CAN DECLARE THE DISTRICT RECOVERED NOW AND THE DISTRICT THEN CAN BE TURNED BACK NOW TO THE DULY ELECTED SCHOOL BOARD PURSUANT TO THE LEGISLATIVE MANDATE OF ACT 141.

- Does the plan include a transition strategy to turn the schools back to the duly elected officials, and if not, why not?
- Does the plan include in that transition mechanisms of checks and balances and a probationary period so that the PDE can monitor and make sure that the District does

not fall back on poor management, administrative, security, facility maintenance, educational, fiscal and accounting practices?

- How can any plan now proceeding into the third year of recovery be comprehensive if it does not include a targeted exit date with an exit strategy?

40. HOW CAN ANY COMPREHENSIVE PLAN BE A REAL PLAN WITHOUT ANSWERING THESE QUESTIONS AND HOW CAN ANYONE INVESTED IN THE COMMUNITY AND CHARGED WITH THE DUTY OF GETTING THESE ANSWERS OUT TO THE COMMUNITY TAKE A REAL COMMUNITY CONCERNED, CHILD ORIENTED, INTELLIGENT, WELL-INFORMED POSITION UNLESS THESE ANSWERS ARE PROVIDED NOW TO THE COMMUNITY AT LARGE? DOESN'T THE COMMUNITY AT LARGE NEED THESE ANSWERS WHILE IT NOW FOR THIS MOMENT HAS THE ADMINISTRATION'S ATTENTION AND BEFORE IT MOVES ONTO OTHER VENUES AND OTHER ISSUES AND BEFORE THE SHALE TAX ISSUE IS FULLY AND FINALLY NEGOTIATED AT THE LEGISLATIVE AND EXECUTIVE LEVEL? WHY NOT TAKE THE TIDE WHILE THE SEA IS FULL AND THE CURRENT SERVES, RATHER THAN ONCE AGAIN BOUND THE DISTRICT IN DEFICITS AND MISERIES?

41. IF THE TIME IS NOW, THEN WHY NOT NOW?

RULE RETURNABLE, with hearing thereon, for the **9th day of September, 2015** at **10:00 a.m.** in Honorable Chad F. Kenney's Courtroom, Courtroom #12, Delaware County Courthouse, Media, Pennsylvania.

BY THE COURT:


CHAD F. KENNEY
President Judge

CC via e-mail:

Leo A. Hackett, Esquire
Robert M. DiOrio, Esquire
George Dawson, Esquire
James R. Flandreau, Esquire
Gregory Schwab, Esquire
Alaina C. Koltash, Esquire
Gene Foehl, Esquire
James J. Byrne, Jr., Esquire
Clifford E. Haines, Esquire
Danielle M. Weiss, Esquire
Rocco P. Imperatrice, III, Esquire
Kathleen O'Connell Bell, Esquire
Ellen E. Lavelle, Esquire
Brian H. Leinhauser, Esquire
Kevin M. McKenna, Esquire
Maria F. Kane, Esquire
Nicole D. Snyder, Esquire
Jennifer K. McLoughlin, Esquire
Timothy W. Garvey, Esquire