

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LAUREL SCHOOL DISTRICT,
MARS AREA SCHOOL DISTRICT,
PENNCREST SCHOOL DISTRICT,
LEONARD A. RICH, MATT
BARKER, JUSTIN SIMON,
MATTHEW and LISA BARTLETT,
individually and on behalf of L.B., a
minor, JUSTIN and KELSIE
KOVACH, individually and on
behalf of A.K., a minor, SHELDON
and ASHLEY McINTYRE,
individually and on behalf of M.M,
JOSEPH and ELIZABETH OLAYER,
individually and on behalf of N.O.,
a minor, SALLIE WICK, individually
and on behalf of A.W., a minor,
WILLIAM GEBHART, DONNA
EAKIN,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION, ACTING SECRETARY
OF THE PENNSYLVANIA
DEPARTMENT OF EDUCATION,

Respondents.

No.: _____

ORIGINAL JURISDICTION

PETITION FOR REVIEW

Counsel of Record for
Petitioners:

Thomas W. King III
PA. I.D. No. 21580
tking@dmkcg.com

Thomas E. Breth
PA. I.D. No. 66350
tbreth@dmkcg.com

Stephenie G.A. Scialabba
PA. I.D. No. 322560
sscialabba@dmkcg.com

Dillon McCandless King
Coulter & Graham, LLP
128 West Cunningham Street
Butler, PA 16001
Telephone: 724-283-2200
Facsimile: 724-283-2298

*Special Counsel for the
Thomas More Society*

NOTICE

YOU HAVE BEEN SUED IN COURT. If you wish to defend against the claims set forth in the following pages, you must act within thirty (30) days after this Petition for Review and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Complaint or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

Dauphin County Lawyer Referral Service
213 North Front Street
Harrisburg, Pennsylvania 17101
(717) 232-7536

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LAUREL SCHOOL DISTRICT,
MARS AREA SCHOOL DISTRICT,
PENNCREST SCHOOL DISTRICT,
LEONARD A. RICH, MATT
BARKER, JUSTIN SIMON,
MATTHEW and LISA BARTLETT,
individually and on behalf of L.B., a
minor, JUSTIN and KELSIE
KOVACH, individually and on
behalf of A.K., a minor, SHELDON
and ASHLEY McINTYRE,
individually and on behalf of M.M,
JOSEPH and ELIZABETH OLAYER,
individually and on behalf of N.O.,
a minor, SALLIE WICK, individually
and on behalf of A.W., a minor,
WILLIAM GEBHART, DONNA
EAKIN,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION, ACTING SECRETARY
OF THE PENNSYLVANIA
DEPARTMENT OF EDUCATION,

Respondents.

No.: _____

ORIGINAL JURISDICTION

PETITION FOR REVIEW

Counsel of Record for
Petitioners:

Thomas W. King III
PA. I.D. No. 21580
tking@dmkcg.com

Thomas E. Breth
PA. I.D. No. 66350
tbreth@dmkcg.com

Stephenie G.A. Scialabba
PA. I.D. No. 322560
sscialabba@dmkcg.com

Dillon McCandless King
Coulter & Graham, LLP
128 West Cunningham Street
Butler, PA 16001
Telephone: 724-283-2200
Facsimile: 724-283-2298

*Special Counsel for the
Thomas More Society*

NOTICE TO PLEAD

TO: RESPONDENTS.

You are hereby notified to file a written response to the enclosed Petition for Review within thirty (30) days from service hereof or a judgment may be entered against you.

Respectfully Submitted,

**DILLON, McCANDLESS, KING,
COULTER & GRAHAM, L.L.P.**

Dated: April 17, 2023

By: /s/ Thomas W. King, III

Thomas W. King, III

PA. I.D. No. 21580

tking@dmkcg.com

Thomas E. Breth

PA. I.D. No. 66350

tbreth@dmkcg.com

Stephenie G.A. Scialabba

PA. I.D. No. 322560

sscialabba@dmkcg.com

Counsel for Petitioners

*Special Counsel for the Thomas
More Society*

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

LAUREL SCHOOL DISTRICT,
MARS AREA SCHOOL DISTRICT,
PENNCREST SCHOOL DISTRICT,
LEONARD A. RICH, MATT
BARKER, JUSTIN SIMON,
MATTHEW and LISA BARTLETT,
individually and on behalf of L.B., a
minor, JUSTIN and KELSIE
KOVACH, individually and on
behalf of A.K., a minor, SHELDON
and ASHLEY McINTYRE,
individually and on behalf of M.M,
JOSEPH and ELIZABETH OLAYER,
individually and on behalf of N.O.,
a minor, SALLIE WICK, individually
and on behalf of A.W., a minor,
WILLIAM GEBHART, DONNA
EAKIN,

Petitioners,

v.

PENNSYLVANIA DEPARTMENT OF
EDUCATION, SECRETARY OF THE
PENNSYLVANIA DEPARTMENT OF
EDUCATION,

Respondents.

No.: _____

ORIGINAL JURISDICTION

PETITION FOR REVIEW

Counsel of Record for
Petitioners:

Thomas W. King III
PA. I.D. No. 21580
tking@dmkcg.com

Thomas E. Breth
PA. I.D. No. 66350
tbreth@dmkcg.com

Stephenie G.A. Scialabba
PA. I.D. No. 322560
sscialabba@dmkcg.com

Dillon McCandless King
Coulter & Graham, LLP
128 West Cunningham Street
Butler, PA 16001
Telephone: 724-283-2200
Facsimile: 724-283-2298

*Special Counsel for the
Thomas More Society*

PETITION FOR REVIEW

Petitioners, Laurel School District, Mars Area School District, PENNCREST School District, Leonard A. Rich, Matt Barker, Justin Simon, Matthew and Lisa Bartlett, individually and on behalf of L.B., a minor, Justin and Kelsie Kovach, individually and on behalf of A.K., a minor, Sheldon and Ashley McIntyre, individually and on behalf of M.M., a minor, Joseph and Elizabeth Olayer, individually and on behalf of N.O., a minor, Sallie Wick, individually and on behalf of A.W., a minor, William Gebhart, and Donna Eakin (hereinafter collectively referred to as “Petitioners”) by and through their undersigned counsel, file the within Petition for Review against Respondents Pennsylvania Department of Education and Secretary of the Pennsylvania Department of Education, stating in support thereof as follows:

Statement of Jurisdiction

1. This Court has original jurisdiction over this action pursuant to 42 Pa.C.S. § 761(a)(1).
2. This action is in the nature of a Declaratory Judgment action pursuant to 42 Pa.C.S. § 7531, *et seq.*, *et al.*

Parties Seeking Relief

3. Petitioner, Laurel School District, is a public school district organized and existing in accordance with the laws of the Commonwealth of

Pennsylvania with its administrative offices located at 2497 Harlansburg Road, New Castle, Lawrence County, Commonwealth of Pennsylvania 16101.

4. Petitioner, Mars Area School District, is a public school district organized and existing in accordance with the laws of the Commonwealth of Pennsylvania with its administrative offices located at 545 Route 228, Mars, Butler County, Commonwealth of Pennsylvania 16046.

5. Petitioner, PENNCREST School District, is a public school district organized and existing in accordance with the laws of the Commonwealth of Pennsylvania with its administrative offices located at 18741 State Highway 198, Saegertown, Crawford County, Commonwealth of Pennsylvania 16433.

6. Petitioners Laurel School District, Mars Area School District, and PENNCREST School District are collectively referred to as “District Petitioners.”

7. Petitioner, Matt Barker, is an adult individual residing in New Castle, Lawrence County, Commonwealth of Pennsylvania. Petitioner Barker is a certified teacher within the Commonwealth of Pennsylvania employed to teach at Laurel School District.

8. Petitioner, Justin Simon is an adult individual residing in Lawrence County, Commonwealth of Pennsylvania. Petitioner Simon is a certified teacher within the Commonwealth of Pennsylvania employed to teach at Laurel School District.

9. Petitioners Matt Barker and Justin Simon are collectively referred to as “Teacher Petitioners.”

10. Petitioner, Leonard A. Rich, is an adult individual residing in New Castle, Lawrence County, Commonwealth of Pennsylvania. Petitioner Rich is the Superintendent of the Laurel School District (hereinafter “Superintendent Petitioner”).

11. Petitioners, Matthew and Lisa Bartlett, are adult individuals, parents and natural guardians of their minor child, L.B. Petitioners Bartlett’s minor child attends Knoch School District. Petitioners Bartlett reside with their minor child in Sarver, Butler County, Commonwealth of Pennsylvania. Petitioners Bartlett join individually and on behalf of their child as parents and natural guardians.

12. Petitioners, Justin and Kelsie Kovach, are adult individuals, parents and natural guardians of their minor child, A.K. Petitioners Kovach’s minor child attends Knoch School District. Petitioners Kovach reside with their minor child in Saxonburg, Butler County, Commonwealth of

Pennsylvania. Petitioners join individually and on behalf of their child as parents and natural guardians.

13. Petitioners, Sheldon and Ashley McIntyre, are adult individuals, parents and natural guardians of their minor child, M.M. Petitioners McIntyre's minor child attends Armstrong School District. Petitioners McIntyre reside with their minor child in Schelocta, Armstrong County, Commonwealth of Pennsylvania. Petitioners join individually and on behalf of their child as parents and natural guardians.

14. Petitioners, Joseph and Elizabeth Olayer, are adult individuals, parents and natural guardians of their minor child, N.O. Petitioners Olayer reside with their minor child in Mars, Butler County, Commonwealth of Pennsylvania. Petitioners Olayer's minor child attends the Mars Area School District. Petitioners Olayer join individually, and on behalf of their child as parents and natural guardians.

15. Petitioner, Sallie Wick, is an adult individual, parent and natural guardian of her minor child, A.W. Petitioner Wick resides with her minor child in Mars, Butler County, Commonwealth of Pennsylvania. Petitioner Wick's minor child attends the Mars Area School District. Petitioner Wick joins individually, and on behalf of her child as her parent and natural guardian.

Petitioner Wick is a member of the Board of School Directors in the Mars Area School District.

16. The parent Petitioners, individually and on behalf of their minor children who are enrolled in public school districts within the Commonwealth of Pennsylvania are collectively referred to as “Parent Petitioners.”

17. Petitioner, William Gebhart, is an adult individual residing in Saxonburg, Butler County, Commonwealth of Pennsylvania. Petitioner Gebhart joins in his individual capacity as a citizen, taxpayer, and resident of Knoch School District and in his capacity as an individual member of the Board of School Directors of the Knoch School District (hereinafter referred to as “Board Member Petitioner”).

18. Petitioner, Donna Eakin, is an adult individual residing in Butler, Butler County, Commonwealth of Pennsylvania. Petitioner Eakin joins in her individual capacity as a citizen, taxpayer, and resident of Knoch School District and in her capacity as an individual member of the Board of School Directors of the Knoch School District (hereinafter referred to as “Board Member Petitioner”).

19. The Board Member Petitioners are collectively referred to as “Board Member Petitioners.”

20. The School District Petitioners, Superintendent Petitioner, Teacher Petitioners, Parent Petitioners and Board Member Petitioners are collectively referred to as “Petitioners.”

Governmental Unit Whose Action is at Issue

21. Respondent, Pennsylvania Department of Education, is an Administrative Department within the Commonwealth of Pennsylvania, organized and existing pursuant to 71 P.S. § 61 with offices located in Harrisburg, Dauphin County, Commonwealth of Pennsylvania.

22. Respondent, Secretary of the Pennsylvania Department of Education, is, as of the filing of the within Petition for Review, Acting Secretary Dr. Khalid N. Mumin (hereinafter referred to as the Secretary of Education).

23. The Secretary of Education is the chief executive officer of the State Board of Education.

24. Petitioners seek review, and declarations pertaining thereto, of the Pennsylvania Department of Education’s “Culturally-Relevant and Sustaining Education (CR-SE) Program Framework Guidelines,” (hereinafter “CR-SE Guidelines”) issued on November 2, 2022. A true and correct copy of the CR-SE “Guidelines” dated November 2, 2022 is attached hereto as Exhibit “A.”

Material Facts Upon Which the Cause of Action is Based

25. In November 2022, Respondents issued “Culturally-Relevant and Sustaining Education (CR-SE) Program Framework Guidelines” hereinafter referred to as “CRSE Guidelines.” See Ex. A. (hereinafter “CRSE Guidelines”)

26. Respondents’ CRSE Guidelines were issued without having been subject to the requirements of the Regulator Review Act.

27. The CRSE Guidelines assert that “22 Pa. Code §49.14(4)(i) requires the Pennsylvania Department of Education (PDE) to identify competencies and develop associated standards for educator training in culturally relevant and sustaining education (CR-SE).” See Ex. A, Pg. 1.

28. The CRSE Guidelines require “... instruction in CR-SE to be integrated in educator preparation, induction, and continuing professional development programs ...” See Ex. A, Pg. 1.

29. The CRSE Guidelines require that “Continuing Professional Development Programs must integrate the CR-SE competencies no later than the 2023-2024 academic year.”; and that “Educator preparation and induction programs must integrate CR-SE competencies no later than the 2024-2025 academic year.” See Ex. A, Pg. 1.

30. The CRSE Guidelines state “22 Pa. Code §49.1 defines several

terms and their definitions are provided in the glossary.” See Ex. A, Pg. 1.

31. Regulation 49.14, including section 49.14(4)(i) states, in relevant part, as follows:

“To be authorized to conduct programs that lead to certificates for professional positions, institutions and any of their off-campus centers as well as alternative program providers engaged in the preparation of educators shall meet the following requirements:

. . .

(4) Follow Department prescribed standards developed from the following principles:

(i) Institutions and alternative program providers develop clear goals and purposes for each program, which shall include competencies, coursework and field experiences that address professional ethics, structured literacy (for programs that lead to certification in Early Childhood, Elementary/Middle, Special education PK-12, English as a second language and Reading Specialist), and *culturally relevant and sustaining education*. The Department will identify these competencies and develop associated standards.”

22 Pa. Code § 49.14.

32. Regulation 49, 22 Pa. Code §49.1, et seq., is applicable to “institutions” and “alternative program providers.” 22 Pa. Code §49.1, et seq.

33. Regulation 49.1 – Definitions does not define the term “institution,” but it does define the term “preparing institution” as “[a] college or university that offers a program approved by the Department to prepare professional personnel for employment in the public schools.” 22 Pa. Code §49.1

34. Regulation 49.1 – Definitions defines the term “alternative program providers” as “[a] provider of accelerated post-baccalaureate preparation program, other than an institution of higher education, that has been approved by the Department in accordance with section 1207.7(a) of the act (12-1207.1(a)). 22 Pa. Code §49.1

35. Regulation 49.1 – Definitions defines the term “school entity,” as “[p]ublic schools, school districts, intermediate units, area career and technical schools, charter schools, cyber schools and independent schools.” 22 Pa. Code § 49.1.

36. Regulation 49.1 – Definitions defines the term “continuing professional education” as “[t]he formal acquisition of collegiate or in-service credits designed to improve and expand the expertise of professional personnel.” 22 Pa. Code § 49.1.

37. Regulation 49.1 – Definitions defines the term “induction program as “[a] description of the induction process developed and submitted by the school entity to the Department for approval which describes how a teacher or educational specialist will be introduced to the teaching profession under this chapter.” 22 Pa. Code § 49.1.

38. 22 Pa. Code § 49.16 – Approval of induction plans states in relevant part “[i]nduction plan guidelines shall include professional ethics,

and culturally relevant and sustaining education as determined by the Secretary.” 22 Pa. Code § 49.16(c)

39. 22 Pa. Code § 49.17 – Continuing professional education states in relevant part as follows:

(a) As required under § 4.13(a) (relating to strategic plans), a school entity shall submit to the Secretary for approval a 3-year professional education plan every 3 years in accordance with the professional education guidelines established by the Secretary and section 1205.1 of the act (24 P.S. § 12-1205.1). A school entity shall make its professional education plan available for public inspection and comment for a minimum of 28 days prior to approval of the plan by the school entity's governing board and submission of the plan to the Secretary.

(1) A school entity shall develop a continuing professional education plan, which includes options for professional development including, but not limited to, activities such as the following: ...”

22 Pa. Code § 49.17(a)(1)

40. 22 Pa. Code § 49.17 – Continuing professional education further states in relevant part as follows:

“The continuing professional education plan must include a section which describes how the professional education needs of the school entity, including those of diverse learners, and its professional employees are to be met through implementation of the plan. The plan must describe how professional development activities will improve language and literacy acquisition for all students, including the provision of training in structured literacy for professional employees who hold instructional certificates in Early Childhood, Elementary/Middle, Special Education PK--12, English as a second language and Reading Specialists. The plan must contribute to closing achievement gaps among students,

and improve professional employees knowledge of professional ethics and *culturally relevant and sustaining education*.

22 Pa. Code § 49.17(a)(6)

41. Section 12-1205.1 – Continuing professional development of the Public School Code states in relevant part as follows:

“The professional education plan provided for in subsection (a) shall be prepared by a committee consisting of teacher representatives divided equally among elementary, middle, and high school teachers chosen by the teachers, educational specialist representatives chosen by educational specialists and administrative representatives chosen by the administrators of the school entity. ... The secretary may specify the time at which and the form in which such plans are to be submitted. The State Board of Education shall promulgate regulations, subject to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," establishing the minimal content of such plans. The provisions of section 2552 shall apply to any school entity failing to comply with the provisions of this section.”

24 P.S. §1205.1(b)

42. Section 12-1205.1 – Continuing professional development further states in relevant part as follows:

“... A school entity shall annually review its plan to determine whether or not it continues to reflect the needs of the school entity and the needs of its professional employees, students and the community. ... The plan shall specify the continuing professional educational courses, programs, activities and other learning experiences approved to meet continuing professional development requirements under section 1205.2(c), including efforts designed to improve teacher knowledge in subject areas covering the academic standards listed in 22 Pa. Code Ch. 4 (relating to academic standards and assessment).

24 P.S. §1205.1(c).

43. Section 12-1205.1 – Continuing professional development

further states in relevant part as follows:

“The continuing professional education plan shall specify the professional education needs that will be met by completion of each continuing professional education option and how it relates to areas of assignment and certification or potential administrative certification. The options may include, but shall not be limited to:

(1) Collegiate studies.

(2) Continuing professional education courses taken for credits.

(3) Other programs, activities or learning experiences taken for credit or hourly, to include: ...”

24 P.S. §1205.1(c.1).

44. Section 12-1205.1 – Continuing professional development

further states in relevant part as follows:

All professional educators of a school entity shall meet the professional education requirements of this section and section 1205.2 in order for the professional educator to maintain active certification.

24 P.S. §1205.1(d).

45. Section 12-1205.2 – Programs of continuing professional and paraprofessional education states in relevant part as follows:

(a) A continuing professional education program is hereby established for professional educators, the satisfactory completion of which is required to maintain active certification.

Except as provided in subsections (n.1) and (n.2), the continuing professional education program shall require the satisfactory completion of continuing professional education every five (5) years, which shall include:

- (1) six (6) credits of collegiate study;
- (2) six (6) credits of continuing professional education courses;
- (3) one hundred eighty (180) hours of continuing professional education programs, activities or learning experiences; or
- (4) any combination of collegiate studies, continuing professional education courses, or other programs, activities or learning experiences equivalent to one hundred eighty (180) hours.

24 P.S. §12-1205.2(a).

46. Section 12-1205.2 – Programs of continuing professional and paraprofessional education further states in relevant part as follows:

“The requirements of subsection (a) may be satisfied by a professional educator, whether or not presently employed by a school entity, by the successful completion of credits or hours to include any of the following:

- (1) Credits of collegiate studies related to an area of the professional educator's assignment or certification at an institution of higher education approved by the department.
- (2) Credits of continuing professional education courses related to an area of the professional educator's assignment or certification conducted by providers approved by the department.
- (3) Hours of other continuing professional education programs, activities or learning experiences related to an

area of the professional educator's assignment or certification conducted by providers approved by the department.

(4) Credits or hours completed in any collegiate studies, continuing professional education courses or continuing professional education programs, activities or learning experiences included in the professional education plan of the professional educator's school entity and conducted by:

- (i) the department;
- (ii) providers approved by the department;
- (iii) the professional educator's school entity; or
- (iv) providers approved as part of the professional education plan of the professional educator's school entity.

(5) Credits or hours not included in clauses (1) through (4) approved by the board of directors of the school entity.

(6) Credits or hours required to obtain administrator certification.

(7) Credits or hours in an area other than the area of the professional educator's assignment or certification if the professional educator may be transferred by the board of directors to another assignment. The credits or hours must be approved for the professional educator by the board of directors.

(8) Successful completion of department training for service as a Distinguished Educator if the professional educator participates in and completes at least one assignment in the Distinguished Educators Program.”

24 P.S. §12-1205.2(c).

47. Section 12-1205.2 – Programs of continuing professional and paraprofessional education further states in relevant part as follows:

“In order to ensure that credits and hours of continuing professional education are of high quality and designed to

significantly advance the goals of improving and updating the educational skills of professional educators in this Commonwealth, the department shall develop and implement guidelines to approve certain providers of continuing professional education programs. The guidelines shall include a process to approve: ...”

24 P.S. §12-1205.2(d).

48. Section 12-1205.2 – Programs of continuing professional and paraprofessional education further states in relevant part as follows:

“If the school entity is assuming all costs of credits or hours, the board of directors may disapprove any course, program, activity or learning experience that is inconsistent with the goals of the professional educational plan.”

24 P.S. §12-1205.2(e).

49. Contrary to the statutory provisions contained in the Public School Code, the CRSE Guidelines mandate and require that Petitioners adhere to the nine (9) “Competencies” outlined in the CRSE Guidelines.

50. For example, the CRSE Guidelines mandate and require, among other things, that Petitioners:

- a. “Engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices.” Exhibit A, CRSE 1.C
- b. “Disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness.” Exhibit A, CRSE 2.F.

- c. Design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world.” Exhibit A, CRSE 2.F.
- d. “Understand and honor the ways in which culture influences verbal and nonverbal communication.” Exhibit A, CRSE 7.A.
- e. “Believe that all learners have a choice and a right to practice the language(s) of their culture.” Exhibit A, CRSE 7.E.
- f. “Believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” Exhibit A, CRSE 9.A.

51. These “competencies” are drawn from “*Culturally Responsive Teaching: A Reflection Guide*,” a 2020 Policy Paper authored by Jenny Muñiz and published by New America Foundation.

52. Neither the “Guidelines” nor the Policy Paper have ever been subjected to review under the Regulatory Review Act.

53. The State Board of Education has never promulgated or adopted Respondents’ CRSE Guidelines, as a rule, regulation or otherwise.

54. Section 12-1205.1(b) requires that any regulation establishing the content of the Continuing Professional Development Plan must be promulgated by regulation under the Regulatory Review Act.

55. Respondents’ CRSE Guidelines, without compliance with the Regulatory Review Act, mandate that “[c]ontinuing professional development programs must integrate the CR-SE competencies no later than the 2023-

2024 academic year” or be subject financial penalties imposed by the Respondents. See Ex. A, Pg. 1.

56. Section 12-1205.1(b) makes the provisions of Section 25-2552 – Withholding state appropriations, applicable to any school entity that fails to comply with the continuing professional development program requires.

57. Section 12-1205.1(b) states in relevant part as follows:

“It shall be the duty of the Superintendent of Public Instruction to withhold the payment of all money due any school district out of any appropriation made by the Commonwealth for any purpose, until all reports required by law and due at such time have been filed either with the Department of Public Instruction or other proper authority, whether or not such reports have any bearing on the right to such payment, and until all the school district's records bearing on its rights to reimbursements have been submitted on such uniform forms and in such manner as shall be prescribed by the department. At his discretion, he may, in like manner, withhold any or all appropriations from any district failing or refusing to comply with the laws and regulations of any department of the government of this Commonwealth for preserving the health or safety of pupils enrolled in the public schools.”

24 P.S. § 25-2552.

58. School District Petitioners must implement Respondents’ improperly promulgated CRSE Guidelines, “no later than the 2023-2024 academic year.” See Ex. A, Pg. 1.

59. Respondents have made it clear that if School District Petitioners' failure to comply with the CRSE Guidelines, such failure will result in the loss of their state appropriations pursuant to 24 P.S. § 25-2552.

60. The School District Petitioners have taken public action by and through their respective Boards of School Directors to approve the filing of the within Petition for Review as School Board Petitioners believe and aver that Respondents' CRSE Guidelines: 1) constitute a regulation; 2) exceed the powers and authority of Respondents; 3) usurp the powers of local boards of school directors in violate of the Public School Code; 4) are unconstitutionally vague; 5) violate the provisions of the Regulatory Review Act; 6) violate the Code of Professional Practice and Conduct for Educators, 22 Pa. Code §235.1, et seq.; violate Chapters 4 and 12 of the regulations of the State Board of Education; and 6) constitute an impermissible call for civil disobedience directed to educators employed by the School District Petitioners.

61. Respondents' CRSE Guidelines are directly applicable to School District Petitioners.

62. By way of example, under Respondents' CRSE Guidelines, School District Petitioners are required to develop and implement continuing professional development plans that require their professional employees to

engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices; that require their professional employees to “disrupt” harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness; that requires their professional employees to design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world; that require their professional employees to understand and honor the ways in which culture influences verbal and nonverbal communication; that require their professional employees to believe that all learners have a choice and a right to practice the language(s) of their culture; and, believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others. See Ex. A, Pg. 1-8.

63. The requirements contained within Respondents’ CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapters 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), inconsistent with the Code of Professional

Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., as related to the responsibilities of the School District Petitioners, and requires compelled speech, beliefs, and behavior on the part of the School District Petitioners.

64. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application by School District Petitioners.

65. Teacher Petitioners, Justin Simon and Matt Barker, are certified professional educators within the Commonwealth of Pennsylvania and are employed by Petitioner Laurel School District.

66. Respondents' CRSE Guidelines are directly applicable to Teacher Petitioners.

67. By way of example, under Respondents' CRSE Guidelines, Teacher Petitioners are required to engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices; disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness; design learning experiences and spaces for learners to identify and question

economic, political, and social power structures in the school, community, nation, and world; understand and honor the ways in which culture influences verbal and nonverbal communication; believe that all learners have a choice and a right to practice the language(s) of their culture; and, believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” See Ex. A, Pg. 2-7.

68. Under Respondents’ CRSE Guidelines, Teacher Petitioners in their individual capacity are required to comply with the requirements of the CRSE Guidelines.

69. As professional educators, Teacher Petitioners are responsible for the implementation and enforcement of Respondents’ CRSE Guidelines within their classrooms and school district.

70. The requirements contained within Respondents’ CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), inconsistent with the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), inconsistent with the provisions of the Public School Code, 24 P.S. §1-101,

et. seq., as related to the responsibilities of the Teacher Petitioners, and require compelled speech, beliefs, and behavior on the part of the Teacher Petitioners.

71. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application to and by Teacher Petitioners.

72. Superintendent Petitioner, Leonard A. Rich, is a superintendent of schools in the Commonwealth of Pennsylvania employed by Petitioner Laurel School District.

73. Respondents' CRSE Guidelines are directly applicable to Superintendent Petitioner.

74. Under Respondents' CRSE Guidelines, Superintendent Petitioner in his individual capacity is required comply with the requirements of the CRSE Guidelines.

75. Under Respondents' CRSE Guidelines, Superintendent Petitioner, as the chief school administrator, is responsible for the enforcement of Respondents' CRSE Guidelines with his school district.

76. Pursuant to the Public School Code, Superintendent Petitioner is responsible for the supervisor, evaluation, rating, discipline, suspension, and

termination of employment of the school district's professional employees.
24, P.S. §§10-1001, et seq., 11-1101, et seq.

77. By way of example, under Respondents' CRSE Guidelines, Superintendent Petitioner must inform professional employees that they are required to engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices; that they are required to disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness; that they are required to design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world; that they are required to understand and honor the ways in which culture influences verbal and nonverbal communication; that they are required to believe that all learners have a choice and a right to practice the language(s) of their culture; and, that they are required to believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others." See Ex. A, Pg. 2-7.

78. Superintendent Petitioner, as the chief school administrator, is responsible to evaluate, rate, discipline, take corrective action and terminate the employment of any professional employee who fails to comply with the requirements of Respondents' CRSE Guidelines.

79. The requirements contained within Respondents' CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), inconsistent with the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., as related to the responsibilities of the Superintendent Petitioner, and requires compelled speech, beliefs, and behavior on the part of Superintendent Petitioner.

80. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application to and by Superintendent Petitioner.

81. Parent Petitioners are parents of minor children who are currently enrolled in public schools in the Commonwealth of Pennsylvania.

82. Respondents' CRSE Guidelines are directly applicable to Parent Petitioners' children.

83. By way of example, under Respondents' CRSE Guidelines, Parent Petitioners' children will be required to engage in critical and difficult conversations with their teachers to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices. They will be required to participate in learning experiences and spaces designed to identify and question economic, political, and social power structures in the school, community, nation, and world. They will be required to disclose their cultural backgrounds so that their teachers are able to treat them differently based upon their culture backgrounds which may or may not influence their verbal and nonverbal communication. Their behavior will be scrutinized by their teachers to determine whether they exhibit microaggressions which their teachers will then take steps to indoctrinate them in the ideology of the CRSE Guidelines.

84. Respondents' CRSE Guidelines require Parent Petitioners' children to conform their beliefs, behaviors, and speech to the ideological tenets of Respondents.

85. Parent Petitioners' children, as student within a public school, will face discipline and potential expulsion from school if they fail or refuse to comply with or violate the requirements of Respondents' CRSE Guidelines.

86. School District Petitioners, Teacher Petitioners, and Superintendent Petitioners are required to imbue Parent Petitioners' children, through the implementation and enforcement of Respondents' CRSE Guidelines, in the ideological tenets of Respondents.

87. 22 Pa. Code §12.9 - Freedom of Expression states in relevant part as follows:

(a) The right of public school students to freedom of speech is guaranteed by the Constitution of the United States and the Constitution of the Commonwealth.

(b) Students shall have the right to express themselves unless the expression materially and substantially interferes with the educational process, threatens serious harm to the school or community, encourages unlawful activity or interferes with another individual's rights.

(c) Students may use publications, handbills, announcements, assemblies, group meetings, buttons, armbands and any other means of common communication, provided that the use of public school communications facilities shall be in accordance with the regulations of the authority in charge of those facilities.

(1) Students have the responsibility to obey laws governing libel and obscenity and to be aware of the full meaning of their expression.

(2) Students have the responsibility to be aware of the feelings and opinions of others and to give others a fair opportunity to express their views.

22 Pa. Code §12.9(a)(b) and (c).

88. 22 Pa. Code §12.2 – Student responsibilities states in relevant part as follows:

(a) Student responsibilities include ... to share with the administration and faculty a responsibility to develop a climate within the school that is conducive to wholesome learning and living.

(b) No student has the right to interfere with the education of fellow students. It is the responsibility of each student to respect the rights of teachers, students, administrators and all others who are involved in the educational process.

(c) Students should express their ideas and opinions in a respectful manner.

(d) It is the responsibility of the students to conform to the following:

(1) Be aware of all rules and regulations for student behavior and conduct themselves in accordance with them. Students should assume that, until a rule is waived, altered or repealed in writing, it is in effect.

(2) Volunteer information in matters relating to the health, safety and welfare of the school community and the protection of school property.

(3) Dress and groom to meet standards of safety and health, and not to cause substantial disruption to the educational processes.

(4) Assist the school staff in operating a safe school for the students enrolled therein.

(5) Comply with Commonwealth and local laws.

- (6) Exercise proper care when using public facilities and equipment.
- (7) Attend school daily and be on time at all classes and other school functions.
- (8) Make up work when absent from school.
- (9) Pursue and attempt to complete satisfactorily the courses of study prescribed by local school authorities.
- (10) Report accurately in student media.
- (11) Not use obscene language in student media or on school premises.

22 Pa. Code §12.2.

89. If valid, Respondents' CRSE Guidelines would interfere with and contradict the students' rights and responsibilities as set forth in Chapter 12.

90. Parent Petitioners believe and aver that Respondents' CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), in violation of Chapter 12 of the State Board of Education regulations, inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., as related to Parent Petitioners' rights to a public education for their children, and require compelled speech, beliefs, and behaviors on the part of Parent Petitioners' children.

91. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application to Parent Petitioners' children.

92. Board Member Petitioners are school board members duly elected in accordance with the laws of the Commonwealth of Pennsylvania.

93. Respondents' CRSE Guidelines are directly applicable to Board Member Petitioners.

94. By way of examples, under Respondents' CRSE Guidelines, Board Member Petitioners are required to approve continuing professional development programs that require professional employees of their school district to engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices; that require professional employees of their school district to disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness; that requires professional employees of their school district to design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world; that requires professional employees to understand and honor the ways in which culture influences verbal and nonverbal communication; that requires professional employees of their school district to believe that all learners have a choice and a right to practice the language(s) of their culture; and, that requires professional employees of

their school district to believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” See Ex. A, Pg. 2-7.

95. Under Respondents’ CRSE Guidelines, Board Member Petitioners are required comply with the requirements of the CRSE Guidelines or subject their school district to financial penalties imposed by Respondents.

96. Under Respondents’ CRSE Guidelines, Board Member Petitioners, as duly elected school board members, are responsible for the enforcement of Respondents’ CRSE Guidelines within their school district.

97. Pursuant to the Public School Code, Board Member Petitioners, along with the Superintendent of Schools, are responsible for the supervision, evaluation, rating, discipline, suspension, and termination of employment of the school district’s professional employees. 24, P.S. §§10-1001, et seq., 11-1101, et seq.

98. The requirements contained within Respondents’ CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code

§4.1, et seq., §12.1, et seq.), inconsistent with the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., as related to the responsibilities of Board Member Petitioners, and requires compelled speech, beliefs, and behavior on the part of Board Member Petitioners.

99. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application to and by Board Member Petitioners.

Academic Standards for School Entities

100. Section 15-1512 – Courses of study adapted to age, etc., of pupils of the Public School Code sets forth authority of the boards of school directors to establish the courses of study for the students and states in relevant part as follows:

“The board of school directors in every school district, with the advice, assistance and approval of the proper superintendent of schools, shall arrange a course or courses of study adapted to the age, development, and needs of the pupils. These courses of study shall conform to any general course of study arranged by the Superintendent of Public Instruction [Secretary of Education] so far as the local conditions in the respective districts permit.”

24 P.S. § 15-1512 (emphasis added).

101. The academic standards prescribed by the State Board of Education are found in Title 22, Subpart A, Chapter 4 – Academic Standards and Assessment, of the Pennsylvania Administrative Code. See 22 Pa. Code § 4.1, *et seq.*, *et al.*

102. As set forth by 22 Pa. Code § 4.2 - Purpose, “[t]he purpose of this chapter is to establish rigorous academic standards and assessments, applicable only to the public schools in this Commonwealth, to facilitate the improvement of student achievement and to provide parents and communities a measure by which school performance can be determined.” 22 Pa. Code § 4.2.

103. 22 Pa. Code §4.3 - Definitions defines the relevant terms listed below:

Curriculum – “A series of planned instruction aligned with the academic standards in each subject area that is coordinated and articulated and implemented in a manner designed to result in the achievement at the proficient level by all students.”

Pennsylvania Core Standards - ... The standards defined the knowledge and skills students should have within their K-12 education careers so that they will graduate high school able to succeed in entry-level, credit-bearing academic college courses and in work-force training programs.”

Planned instruction – “Instruction offered by a school entity based upon a written plan to enable students to achieve the academic standards under §4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.”

School Code – “The Public School Code of 1949 (24 P.S. §§ 1-101-27-2702).”

School Entity – “A local public education provider (for example, public school district, charter school, ...).”

104. 22 Pa. Code § 4.4 – General policies states in relevant part as follows:

“(a) It is the policy of the Board that the local curriculum be designed by school entities to achieve the academic standards under § 4.12 (relating to academic standards) and any additional academic standards as determined by the school entity.

(b) It is the policy of the Board that local school entities have the greatest possible flexibility in curriculum planning consistent with providing quality education and in compliance with the School Code, including requirements for courses to be taught (24 P. S. §§ 15-1501 and 16-1605); subjects to be taught in the English language (24 P. S. § 15-1511); courses adapted to the age, development and needs of the pupils (24 P. S. § 15-1512); minimum school year of 180 days and minimum of 900 hours of instruction at the elementary level and 990 hours of instruction at the secondary level (24 P. S. §§ 15-1501 and 15-1504); employment of sufficient numbers of qualified professional employees (24 P. S. § 11-1106) and superintendents to enforce the curriculum requirements of State law (24 P. S. § 10-1005); and this part.

...

(d) School entities shall adopt policies to assure that parents and guardians have the following:

(1) Access to information about the curriculum, including academic standards to be achieved, instructional materials and assessment techniques.

(2) A process for the review of instructional materials.

(e) The Department will provide support to school district, ... in developing educational programs that enable students to attain academic standards under §4.12. ...

(f) The Department may not, and the Board will not, require school entities to utilize a Statewide curriculum or Statewide reading lists.

22 Pa. Code § 4.4.

105. The regulations promulgated by the State Board of Education provide that the curriculum selected and approved by the school entities must meet specific standards for elementary education, middle level education, and high school education.

106. 22 Pa. Code § 4.21 – Elementary education: primary and intermediate levels states that school entities’ “[c]urriculum and instruction in the primary program must be standards-based and focus on introducing young children to formal education, developing an awareness of the self in relation to others and the environment, and developing skills of communication, thinking and learning. Literacy skills, including phonemic awareness, phonological awareness, fluency, vocabulary and comprehension and developmental writing will begin in prekindergarten and kindergarten, if offered, and developed appropriately for the primary grade level.” 22 Pa. Code § 4.21.

107. Regulation 4.21 sets forth academic standards for intermediate elementary education as follows:

(e) Planned instruction aligned with academic standards in the following areas shall be provided to every student every year in the primary program. Planned instruction may be provided as separate course or other interdisciplinary activity.

(1) Language arts, integrating reading, writing, phonics, spelling, listening, speaking, literature and grammar, and information management, including library skills.

(2) Mathematics, including problem-solving and computation skills.

(3) Science, environment and ecology, involving active learning experiences for students.

(4) Technology and engineering education, involving active learning experiences for students.

(5) Social studies (civics and government, economics, geography and history).

(6) Health, safety and physical education, including instruction in concepts and skills which affect personal, family and community health and safety, nutrition, the prevention of alcohol, chemical and tobacco abuse, knowledge and practice of lifetime physical activities, personal fitness, basic movement skills and concepts, motor skill development, principles and strategies of movement, and safety practices in physical activity settings.

(7) The arts, including active learning experiences in art, music, dance and theatre.

. . .

(i) School districts, including charter schools, shall determine the most appropriate way to operate their primary and intermediate level elementary programs to achieve the purposes under

subsections (b) and (d) and any mission, goals and academic standards as determined by the school entity.

22 Pa. Code § 4.21.

108. Regulation 4.22 sets forth academic standards for middle level education, as follows:

(c) Planned instruction aligned with academic standards in the following areas shall be provided to every student in the middle level program. Planned instruction may be provided as a separate course or as an instructional unit within a course or other interdisciplinary instructional activity:

(1) Language arts, integrating reading, writing, listening, speaking, literature and grammar.

(2) Mathematics, including mathematical reasoning, algebra and problem-solving.

(3) Science, environment and ecology, which involves active learning experiences and which may include laboratory experiments, instruction in agriculture and agricultural science, and political and economic aspects of ecology.

(4) Social studies (civics and government, economics, geography and history, including the history and cultures of the United States, the Commonwealth, and the world).

(5) Technology and engineering.

(6) Information skills, including access to traditional and electronic information sources, computer use and research.

(7) Health, safety and physical education, including instruction in concepts and skills which affect personal, family and community health and safety, nutrition, physical fitness, movement concepts, motor skill development, safety in physical activity

settings, and the prevention of alcohol, chemical and tobacco abuse.

(8) The arts, including art, music, dance and theatre.

(9) Career education, including exposure to various career options and the educational preparation necessary to achieve those options.

(10) Technology education, emphasizing practical application of academic skills and problem-solving experiences facilitated by technology.

(11) Family and consumer science, including principles of consumer behavior and basic knowledge of child health and child care skills.

. . .

(e) School entities shall determine the most appropriate way to operate their middle level programs to achieve the purposes under subsection (b) and any additional academic standards as determined by the school entity.

22 Pa. Code § 4.22.

109. Regulation 4.23 sets forth academic standards for secondary level education, as follows:

(c) Planned instruction aligned with academic standards in the following areas shall be provided to every student in the high school program. Planned instruction may be provided as a separate course or as an instructional unit within a course or other interdisciplinary instructional activity:

(1) Language arts, integrating reading, writing, listening, speaking, literature and grammar.

(2) Mathematics, including problem-solving, mathematical reasoning, algebra, geometry and concepts of calculus.

(3) Science, environment and ecology, including scientific, social, political and economic aspects of ecology, participation in hands-on experiments and at least one laboratory science chosen from life sciences, earth and space sciences, chemical sciences, physical sciences and agricultural sciences.

(4) Social studies (civics and government, economics, geography and history, including the history and cultures of the United States, the Commonwealth and the world).

(5) Technology and engineering.

(6) The arts, including art, music, dance, theatre and humanities.

(7) Use of applications of microcomputers and software, including word processing, database, spreadsheets and telecommunications; and information skills, including access to traditional and electronic information sources, computer use and research.

(8) Health, safety and physical education, including instruction in concepts and skills which affect personal, family and community health and safety, nutrition, physical fitness, movement concepts, motor skill development, safety in physical activity settings, and the prevention of alcohol, chemical and tobacco abuse.

(9) Family and consumer science, including principles of consumer behavior and basic knowledge of child health, child care and early literacy skill development.

(d) The following planned instruction shall be made available to every student in the high school program:

(1) Career and technical education under §§ 4.3 and 4.31--4.35.

(2) Business education, including courses to assist students in developing business and information technology skills.

(3) World languages under § 4.25 (relating to languages).

(4) Technology education, incorporating technological problem-solving and the impacts of technology on individuals and society.

. . .

(g) School districts, including a charter school, shall determine the most appropriate way to operate their high school programs to achieve the purposes under subsection (a) and any additional academic standards as determined by the school entity.

22 Pa. Code § 4.23

110. None of the above-cited standards promulgated by the State Board of Education include, mention, or require any of the “guidance” set forth in Respondents’ CRSE Guidelines. See Ex. A.

111. Each of the above-cited standards promulgated by the State Board of Education state that the school entities shall determine the most appropriate way to operate their programs to achieve the academic standards identified in the regulations. See 22 Pa. Code §§ 4.21(i) (“School districts, including charter schools, shall determine the most appropriate way to operate their primary and intermediate level elementary programs to achieve the purposes under subsections (b) and (d) and any mission, goals and academic standards as determined by the school entity”); 4.22(e) (“School entities shall determine the most appropriate way to operate their middle level programs to achieve the purposes under subsection (b) and any

additional academic standards as determined by the school entity”); 4.23 (g) (“School districts, including a charter school, shall determine the most appropriate way to operate their high school programs to achieve the purposes under subsection (a) and any additional academic standards as determined by the school entity”).

112. Respondents’ CRSE Guidelines improperly seek to establish additional academic standards and state-wide curriculum applicable to school entities in the Commonwealth of Pennsylvania under the guise of the issuance of guidance, rather than by the promulgation of regulations subject to Regulatory Review Act, as required by 24 P.S. § 15-1511.

Certification of Professional Educators
in the Commonwealth of Pennsylvania

113. The Department of Education provides for the registration of persons qualified to teach in elementary and secondary schools of this Commonwealth which are accredited by the Department of Education and conform to the official standards promulgated by the State Board of Education. 24 P.S. § 1224.

114. The State Board of Education shall have the power and duties listed below:

- (a) To adopt and promulgate rules and regulations not inconsistent herewith for the execution and administration of this act;

(b) To establish and promulgate standards of preliminary and professional education and training for teachers in such schools;

(c) to (f) Repealed

(g) To submit annually to the department of Public Instruction¹ an estimate of the financial requirements of the board for administrative expenses.

24 P.S. § 1226.

115. Chapter 49 – Certification of Professional Personnel provides that,

(a) The Board, through the Secretary, will provide standards for the guidance of the preparing institutions in educating professional personnel for the schools of this Commonwealth, all of which are to include accommodations and adaptations for diverse learners.

22 Pa. Code § 49.13.

116. Chapter 49 further provides for the standards that must be met by candidates to obtain instructional certificates in the Commonwealth of Pennsylvania, as follows:

(1) The teacher understands the central concepts, tools of inquiry, and structures of the discipline the teacher teaches and can create learning experiences that make these aspects of subject matter meaningful for all students.

(2) The teacher understands how all children learn and develop, and can provide learning opportunities that support their intellectual, social, career and personal development.

¹ Now the Pennsylvania Department of Education, *see* 71 P.S. §§ 1037, 1038.

(3) The teacher understands how students differ in their ability and approaches to learning and creates opportunities that foster achievement of diverse learners in the inclusive classroom.

(4) The teacher understands and uses a variety of instructional strategies, including interdisciplinary learning experiences, to encourage students' development of critical thinking, problem solving and performance skills.

(5) The teacher uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning and self-motivation.

(6) The teacher uses knowledge of effective verbal, nonverbal and media communication techniques supported by appropriate technology to foster active inquiry, collaboration and supportive interaction in the classroom.

(7) The teacher plans instruction based upon knowledge of subject matter, students, the community and curriculum goals.

(8) The teacher understands and uses formal and informal assessment strategies to evaluate and ensure the continuous intellectual, social and physical development of the learner.

(9) The teacher thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(10) The teacher contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

22 Pa. Code § 49.81.

117. None of the above-cited standards promulgated by the State Board of Education relating to the issuance of instructional certificates to educators contain the requirements imposed by Respondents' CRSE Guidelines.

118. The State Board of Education cites to the following as its statutory authority for its latest amendment of Chapter 49 of its regulations:

"The Board is acting under the authority of sections 1109, 1141, 2603-B and 2604-B of the Public School Code of 1949 (24 P.S. §§ 11-1109, 11-1141, 26-2603-B and 26-2604-B)"

52 Pa.B. 2451.

119. Section 1109 of the Public-School Code provides, in relevant part, as follows:

(a) Every teacher employed to teach in the public schools of this Commonwealth must be a person of good moral character, must be at least eighteen years of age, and must be a citizen of the United States: ...

(b) Every principal appointed after August thirty-first, one thousand nine hundred fifty-three, employed in the public schools of this Commonwealth, who devotes one-half or more of his time to supervision and administration, shall be properly certificated by the Department of Public Instruction in accordance with such standards as the State Board of Education may establish.

...

(f)(1) The Department of Education shall design and offer an induction program at no cost to those principals, vice principals and assistant principals who participate and at no cost to their

employer school entities and shall approve other providers to offer induction programs. An induction program shall be designed to aid in development in the core school leadership standards identified in section 1217(a)(1).

24 P.S. § 11-1109.

120. Section 1141 of Public-School Code provides, in relevant part, as follows:

For purposes of this subdivision. –

(1) “Teacher” shall include all professional employees and temporary professional employees, who devote fifty per centum (50%) of their time, or more, to teaching or other direct educational activities, such as classroom teachers, demonstration teachers, museum teachers, counsellors, librarians, school nurses, dental hygienists, home and school visitors, and other similar professional employees and temporary professional employees, certificated in accordance with the qualifications established by the State Board of Education.

24 P.S. § 11-1141.

121. Section 2604-B of Public-School Code provides for the Powers and duties of Council of Basic Education and Council of Higher Education.

24 P.S. § 26-2604-B.

122. Section 2604-B of Pennsylvania’s Public School Code states, in relevant part, as follows:

(b) The Council of Basic Education shall have the power, and its duty shall be to:

. . .

(vii) the subjects to be taught and the activities to be conducted in elementary, secondary, adult education and other schools;

(viii) the qualifications for employment of professional personnel in the public schools; and

(ix) the education and training in trauma-informed approaches.

24 P.S. § 26-2604-B(b).

123. Section 2604-B of Public School Code states, in relevant part, as follows:

(c) The Council of Higher Education shall have the power and its duty shall be to:

(1) develop a master plan for higher education in this Commonwealth, including a system of community colleges as provided by law, for adoption by the board;

(2) develop standards for the approval of colleges and universities for the granting of certificates and degrees;

(3) develop standards for all higher education building projects involving the use of State funds or the funds of any Commonwealth instrumentality; and

(4) investigate programs, conduct research studies and formulate policy proposals in all areas pertaining to higher education in this Commonwealth, including a system of community colleges and technical institutes as provided by law.

24 P.S. § 26-2604B(c).

124. Section 2603-B of Public-School Code provides, in relevant part, as follows:

(d) the board shall also have the authority and duty to:

(1) approve or disapprove any application for the creation of a new school district, or change in the boundaries of an existing school district;

(2) establish, whenever deemed advisable, committees of professional and technical advisors to assist the councils in performing research studies undertaken by them;

. . .

(5) adopt policies under which the Secretary of Education shall approve or disapprove any action of a State-owned university, community college or State-related or State-aided college or university in establishing additional branches or campuses, or in discontinuing branches or campuses;

. . .

(9) require the submission of long-range plans from all public and private institutions of higher education at the times and in the form requested by the board. Such documents shall be reviewed by the Council of Higher Education and the board in the development of a master plan for higher education as provided in subsection (h) and section 2604-B(c)(1);

(9.1) adopt policies encouraging the inclusion of trauma-informed approaches in professional education curriculum in all public and private institutions of higher education in this Commonwealth issuing degrees to individuals who may desire to teach in the schools of this Commonwealth.

. . .

(k) The board shall make all reasonable rules and regulations necessary to effectuate the purposes of this article and carry out all duties placed upon it by law.

24 P.S. § 26-2603-B.

125. The Public School Code defines the term “Trauma-informed approach,” as follows:

Includes a school-wide approach to education and a classroom-based approach to student learning that recognizes the signs and symptoms of trauma and responds by fully integrating

knowledge about trauma into policies, professional learning, procedures and practices for the purposes of recognizing the presence and onset of trauma, resisting the reoccurrence of trauma and promoting resiliency tailored to a school entity's culture, climate, and demographics and the community as a whole.

24 P.S. § 1-102.

COUNT I – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines constitute a regulation promulgated in violation of the Regulatory Review Act

126. Paragraphs 1 through 124 are incorporated by reference as if set forth fully herein.

127. Pennsylvania's General Assembly has passed the Regulatory Review Act, which contains a Legislative Intent section that states in relevant part as follows:

The General Assembly has enacted a large number of statutes and has conferred on boards, commissions, departments and agencies within the executive branch of government the authority to adopt rules and regulations to implement those statutes. The General Assembly has found that this delegation of its authority has resulted in regulations being promulgated without undergoing effective review concerning ... conformity to legislative intent. The General Assembly finds that it must establish a procedure for oversight and review of regulations adopted pursuant to this delegation of legislative power in order to curtail excessive regulation and to require the executive branch to justify its exercise of the authority to regulate before imposing hidden costs upon the economy of Pennsylvania. It is the intent of this act to establish a method for ongoing and

effective legislative review and oversight in order to foster executive branch accountability; to provide for primary review by a commission with sufficient authority, expertise, independence and time to perform that function; to provide ultimate review of regulations by the General Assembly; and to assist the Governor, the Attorney General and the General Assembly in their supervisory and oversight functions.

71 P.S. § 745.2

128. As stated by Justice Wecht of the Pennsylvania Supreme Court, the legal requirements for the promulgation of an agency regulation are as follows:

[a]n agency derives its power to promulgate regulations from its enabling act. An agency's regulations are valid and binding only if they are: (a) adopted within the agency's granted power, (b) issued pursuant to proper procedure, and (c) reasonable.... [W]hen promulgating a regulation, an agency must comply with the requirements set forth in the Commonwealth Documents Law, the Commonwealth Attorneys Act, and the Regulatory Review Act. Regulations promulgated in accordance with these requirements have the force and effect of law. A regulation not promulgated in accordance with the statutory requirements will be declared a nullity.

In general, the purpose of the Commonwealth Documents Law is to promote public participation in the promulgation of a regulation. To that end, an agency must invite, accept, review and consider written comments from the public regarding the proposed regulation; it may hold public hearings if appropriate. After an agency obtains the Attorney General's approval of the form and legality of the proposed regulation, the agency must deposit the text of the regulation with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Corman v. Acting Secretary of Pennsylvania Dep't of Health, 266 A.3d 452, 461 (Pa. 2021).

129. Section 745.5b of the Regulatory Review Act establishes the criteria to be applied in the review of a proposed regulation and states, in relevant part, as follows:

In determining whether a proposed, final-form, final-omitted or existing regulation is in the public interest, the commission shall, first and foremost, determine whether the agency has the statutory authority to promulgate the regulation and whether the regulation conforms to the intention of the General Assembly in the enactment of the statute upon which the regulation is based. In making its determination, the commission shall consider written comments submitted by the committees and current members of the General Assembly, pertinent opinions of Pennsylvania's courts and formal opinions of the Attorney General.

71 P.S. § 745.5b.

130. A “regulation,” is defined by the Regulatory Review Act as follows:

Any rule or regulation, or order in the nature of a rule or regulation, promulgated by an agency under statutory authority in the administration of any statute administered by or relating to the agency or amending, revising or otherwise altering the terms and provisions of an existing regulation, or prescribing the practice or procedure before such agency. ... The term shall not include a proclamation, executive order, directive or similar document issued by the Governor, but shall include a regulation which may be promulgated by an agency, only with the approval of the Governor.

71 P.S. § 745.3.

131. The Pennsylvania Supreme Court has explained and clarified the distinction between substantive rules which must be promulgated through rule-making procedures and statements of policy [guidance or guidelines] requiring no such procedures.

132. In making such a distinction, the Court noted:

The critical distinction between a substantive rule and a general statement of policy is the different practical effect that these two types of pronouncements have in subsequent administrative proceedings. . . A properly adopted substantive rule establishes a standard of conduct which has the force of law. . . The underlying policy embodied in the rule is not generally subject to challenge before the agency.

A general statement of policy, on the other hand, does not establish a 'binding norm'. . . A policy statement announces the agency's tentative intentions for the future. When the agency applies the policy in a particular situation, it must be prepared to support the policy just as if the policy statement had never been issued.

Corman, 266 A.3d at 462; *quoting PHRC v. Norristown Area School Dist.*, 374 A.2d 671, 679 (Pa. 1977).

133. Respondents' CRSE Guidelines establish standards of conduct with the force of law, and any school district or school entity failing to comply with the Guidelines will have their state appropriations withheld. 24 P.S. § 25-2552.

134. Respondents' CRSE Guidelines are a substantive rule required to be promulgated as a regulation. See *Corman*, 266 A.3d at 462.

135. Respondents' CRSE Guidelines require that, "continuing professional development programs must integrate the CR-SE competencies no later than the 2023-2024 academic year." See Ex. A.

136. Section 12-1205.1(a) requires that regulations establishing the content of professional development programs must be promulgated through the Regulatory Review Act:

"... The secretary may specify the time at which and the form in which such plans are to be submitted. The State Board of Education shall promulgate regulations, subject to the act of June 25, 1982 (P.L. 633, No. 181), known as the "Regulatory Review Act," establishing the minimal content of such plans. The provisions of section 2552 shall apply to any school entity failing to comply with the provisions of this section."

24 P.S. § 12-1205.1(b).

137. Respondents' assertion that Chapter 49 grants Respondents the authority to issue the CRSE Guidelines is wrong.

138. While Chapter 49 provides general references to "culturally relevant and sustaining education", no regulations have been promulgated setting forth particular requirements, including, but not limited to, the requirements contained in Respondents' CRSE Guidelines. See 22 Pa. Code § 49.14(4)(i) ("[i]nstitutions and alternative program providers develop

clear goals and purposes for each program, which shall include competencies, coursework and field experiences that address . . . culturally relevant and sustaining education. The Department will identify these competencies and develop associated standards.”)

139. By way of examples, Chapter 49 does not require or mandate that professional educators in Pennsylvania,

- a. “Engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices.” Exhibit A, CRSE 1.C
- b. “Disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness.” Exhibit A, CRSE 2.F.
- c. Design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world.” Exhibit A, CRSE 2.F.
- d. “Understand and honor the ways in which culture influences verbal and nonverbal communication.” Exhibit A, CRSE 7.A.
- e. “Believe that all learners have a choice and a right to practice the language(s) of their culture.” Exhibit A, CRSE 7.E.
- f. “Believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” Exhibit A, CRSE 9.A.

140. Nowhere in Chapter 49 does it, or could it, authorize Respondents to issue a regulation in the form of Guidelines.

141. Respondents' CRSE Guidelines constitute a regulation issued in the form of guidance or guidelines.

142. Regulation 49.81 provides for the standards that must be met by candidates to obtain instructional certificates in the Commonwealth of Pennsylvania, and states in relevant part as follows:

(1) The teacher understands the central concepts, tools of inquiry, and structures of the discipline the teacher teaches and can create learning experiences that make these aspects of subject matter meaningful for all students.

(2) The teacher understands how all children learn and develop, and can provide learning opportunities that support their intellectual, social, career and personal development.

(3) The teacher understands how students differ in their ability and approaches to learning and creates opportunities that foster achievement of diverse learners in the inclusive classroom.

(4) The teacher understands and uses a variety of instructional strategies, including interdisciplinary learning experiences, to encourage students' development of critical thinking, problem solving and performance skills.

(5) The teacher uses an understanding of individual and group motivation and behavior to create a learning environment that encourages positive social interaction, active engagement in learning and self-motivation.

(6) The teacher uses knowledge of effective verbal, nonverbal and media communication techniques supported by appropriate technology to foster active inquiry, collaboration and supportive interaction in the classroom.

(7) The teacher plans instruction based upon knowledge of subject matter, students, the community and curriculum goals.

(8) The teacher understands and uses formal and informal assessment strategies to evaluate and ensure the continuous intellectual, social and physical development of the learner.

(9) The teacher thinks systematically about practice, learns from experience, seeks the advice of others, draws upon educational research and scholarship and actively seeks out opportunities to grow professionally.

(10) The teacher contributes to school effectiveness by collaborating with other professionals and parents, by using community resources, and by working as an advocate to improve opportunities for student learning.

22 Pa. Code § 49.81.

143. Regulation 49.81 does not contain, reference, or require any of the requirements set forth in Respondents' CRSE Guidelines, including, but not limited to, the examples listed below:

- a. "Identify and make efforts to remove bias in their teaching materials, assignments, curriculum, and resource allocation." See Ex. A, CRSE 2.D.
- b. "Engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices." Exhibit A, CRSE 1.C
- c. "Disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness." Exhibit A, CRSE 2.F.
- d. Design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world." Exhibit A, CRSE 2.F.

- e. “Understand and honor the ways in which culture influences verbal and nonverbal communication.” Exhibit A, CRSE 7.A.
- f. “Believe that all learners have a choice and a right to practice the language(s) of their culture.” Exhibit A, CRSE 7.E.
- g. “Believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” Exhibit A, CRSE 9.A.

144. To be valid and enforceable, Respondents’ CRSE Guidelines must be promulgated by regulation pursuant to the Regulatory Review Act.

145. Respondents’ CRSE Guidelines were not published and republished, were not subject to public comment, and were not subject to extensive review and input regarding the appropriateness of the Guidelines, the Guidelines do not comply with Regulatory Review Act and are an improperly promulgated regulation, which is void *ab initio*. See *Corman v. Acting Secretary of Pennsylvania Dep’t of Health*, 267 A.3d 561, 582 (Pa. Commw. 2021), *aff’d* 266 A.3d 452 (Pa. 2021) (declaring that a regulation failing to comply with Pennsylvania’s Regulatory Review Act is void *ab initio*.)

WHEREFORE, Petitioners respectfully request a declaration that:

- a. the Department of Education’s CR-SE “Guidelines” are a regulation subject to Pennsylvania’s Regulatory Review Act;
- b. the Department of Education’s CR-SE “Guidelines” have not been subjected to the requirements of Pennsylvania’s Regulatory Review Act;

- c. that the Department of Education has failed to comply with Pennsylvania's Regulatory Review Act in issuing the CR-SE "Guidelines" and, consequently, that the "Guidelines" are void *ab initio*; and
- d. Such other appropriate relief as this Honorable Court may deem appropriate.

COUNT II – DECLARATORY JUDGMENT

Teacher Petitioners v. Respondents

Respondents' CRSE Guidelines violate the rights of Teacher Petitioners pursuant to the First Amendment to the United States Constitution and Constitution of the Commonwealth of Pennsylvania

146. Paragraphs 1 through 145 are incorporated by reference as if set forth fully herein.

147. The First Amendment to the United States Constitution provides that,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const., Amend. I.

148. Article 1, Section 7 of the Pennsylvania Constitution provides that,

The printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any branch of government, and no law shall ever be made to restrain

the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Pa. Const., art. 1, § 7.

149. As stated by Justice Kennedy of the United States Supreme Court, “[j]ust as the First Amendment may prevent the government from prohibiting speech, the Amendment may prevent the government from compelling individuals to express certain views.” *U.S. v. United Foods, Inc.*, 533 U.S. 405, 410 (2001); *citing Wooley v. Maynard*, 430 U.S. 705 (1977).

150. As further stated by Justice Jackson of the United States Supreme Court, “[i]f there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.” *West Virginia State Board of Education v. Barnette*, 319 U.S. 624, 642 (1943).

151. Respondents’, through the CRSE Guidelines, seek to compel the Teacher Petitioners to acknowledge, affirm, confess believe of, support, and

advance Respondent's the ideological tenets as articulated in Respondents CRSE Guidelines.

152. Respondents' CRSE Guidelines will force the Teacher Petitioners to self-censor their speech, and in many instances, participate in and perpetuate speech that violates their sincerely held and protected beliefs.

153. Through its adoption of the CRSE Guidelines, Respondents have "invade[d] the sphere of intellect and spirit which it is the purpose of the First Amendment to our Constitution to reserve from all official control." *West Virginia State Board of Education*, 319 U.S. at 642.

154. Respondents' CRSE Guidelines were intentionally issued to deprive the Teacher Petitioners of their free speech rights.

155. In issuing the CRSE Guidelines, Respondents were deliberately indifferent to the consequences of compelling Teacher Petitioners to discard their sincerely held protected beliefs in order to compel compliance with Respondents' ideological tenets.

156. As a direct and proximate cause of Respondents' unlawful acts, Teacher Petitioners have and will continue to suffer damages for the loss of their constitution rights, including but not limited to, damage to their free speech rights, the right to beliefs inconsistent with all or part of Respondents'

CRSE Guidelines.

WHEREFORE, Teacher Petitioners respectfully request a declaration that Respondents' CRSE Guidelines constitute unconstitutional compelled and mandated speech, and that the CRSE Guidelines are void *ab initio*.

COUNT III – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines are unconstitutionally vague.

157. Paragraphs 1 through 156 are incorporated by reference as if set forth fully herein.

158. As set forth by Justice Stewart of the United States Supreme Court,

a statute which either forbids or requires the doing of an act in terms so vague that men of common intelligence must necessarily guess at its meaning and differ as to its application violates the first essential of due process of law. No one may be required at peril of life, liberty or property to speculate as to the meaning of penal statutes. All are entitled to be informed as to what the State commands or forbids. Words which are vague and fluid may be as much of a trap for the innocent as the ancient laws of Caligula.

Cramp v. Board of Public Instruction of Orange County, Fl., 368 U.S. 278, 287 (1961).

159. As further stated by Justice Stewart,

The vice of unconstitutional vagueness is further aggravated where, as here, the statute in question operates to inhibit the exercise of individual freedoms affirmatively protected by the Constitution. As we in *Smith v. People of State of California*, stricter standards of permissible statutory vagueness may be applied to a statute having a potentially inhibiting effect on speech; a man may the less be required to act at his peril here, because the free dissemination of ideas may be the loser. The maintenance of the opportunity for free political discussion to the end that government may be responsive to the will of the people and that changes may be obtained by lawful means, an opportunity essential to the security of the Republic, is a fundamental principle of our constitutional system. A statute which upon its face, and as authoritatively construed, is so vague and indefinite as to permit the punishment of the fair use of this opportunity is repugnant to the guaranty of liberty contained in the Fourteenth Amendment.

Id. at 287-288; citing *Smith v. California*, 361 U.S. 147, 151 (1959); *Stromberg v. California*, 283 U.S. 359, 369 (1931).

160. Regulations and statutes affecting freedoms guaranteed by the First Amendment of the United States Constitution are held to a stricter standard as it relates to their permissible vagueness.

161. As stated by Justice Brennan of the United States Supreme Court,

[w]e emphasize once again that “precision of regulation must be the touchstone in an area so closely touching our most precious freedoms, for standards of permissible statutory vagueness are strict in the area of free expression. Because First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity.” . . . When one must guess what conduct or utterance may lose him his position, one necessarily will “steer far wider of the unlawful zone.” For

“the threat of sanctions may deter almost as potently as the actual application of sanctions.” The danger of that chilling effect upon the exercise of vital First Amendment rights must be guarded against by sensitive tools which clearly inform teachers what is being proscribed.

Keyishian v. Board of Regents of the University of the State of New York, 385 U.S. 589, 603-604 (1967); *citing NAACP v. Button*, 371 U.S. 415 (1963); *Stromberg v. California*, 283 U.S. 359 (1931); *Cramp v. Board of Public Instruction*, 368 U.S. 278 (1961).

162. Respondents CRSE Guidelines “[are] wholly lacking in ‘terms susceptible of objective measurement,’” and as such are unconstitutionally vague. See *Keyishian*, 385 U.S. at 604; *citing Cramp v. Board of Public Instruction*, 368 U.S. 278, 286 (1961)

163. By way of example, the CRSE Guidelines require educators to “engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices; disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness; design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world; understand and honor the ways in which culture influences verbal and nonverbal communication; believe that

all learners have a choice and a right to practice the language(s) of their culture; and, believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.” See Ex. A, CRSE1.A - 9.A.

164. By way of further example, Respondents define the term “microaggression” as “[a] comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group (such as a racial minority).” See Ex. A.

165. All of the Petitioners are required to acknowledge, understand, implement, and police in a fair and equitable manner measures to address “microaggressions” while in the school setting.

166. The term “microaggression” is not a term recognized in Pennsylvania law and further, such term is not defined under Pennsylvania law apart from the general definition created and inserted in the CRSE Guidelines by Respondents.

167. Under Respondents’ CRSE Guidelines, Petitioners are left to determine, at their own peril, whether association with a particular political view or advocacy of a particular opinion constitutes a microaggression in violation of the CRSE Guidelines.

168. Respondents' CRSE Guidelines require educators to "disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness." See Ex. A, CRSE 2.F.

169. Notwithstanding the clear and unambiguous call for educators to "disrupt" the practices of the School District which employs them, as addressed hereinafter, *Count V*, the above-quoted Guideline provides no objective measure of which institutional practices, policies and norms educators are required or even permitted to "disrupt."

170. Under Respondents' CRSE Guidelines, educators are required to make countless subjective determinations based upon the educators perceived understanding of the cultural, economic, political, social status, and the conscious and unconscious intentions of their students, colleagues, parents, and community members.

171. As set forth herein, Respondents' CRSE Guidelines will force the Teacher Petitioners and other professional educators to self-censor their own speech, and in many instances, participate in and perpetuate speech that violates their sincerely held beliefs.

172. The requirements contained within Respondents' CRSE Guidelines are vague, ambiguous, overly broad, not clearly defined, not

objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), inconsistent with the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., and requires compelled speech, beliefs, and behavior.

173. The requirements contained within Respondents' CRSE Guidelines are incapable of equitable, unbiased, objective enforcement or application.

WHEREFORE, Petitioners respectfully request a declaration that Respondents' CRSE Guidelines are unconstitutionally vague, and that the Guidelines are void *ab initio*.

COUNT IV – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines usurp the authority of local school district/school entities to establish and determine their curriculum

174. Paragraphs 1 through 173 are incorporated by reference as if set forth fully herein.

175. Respondents' CRSE Guidelines usurp the authority of local school districts and local school entities to establish and determine their own curriculum.

176. The standards promulgated by the State Board of Education relevant to academic standards of primary, middle, and secondary level education state that school entities/school districts shall determine the most appropriate way to operate their programs to achieve the academic standards identified in the regulations. See 22 Pa. Code §§ 4.21(i); 4.22(e); 4.23(g).

177. None of the above-cited regulations provide for CRSE Guideline to be integrated into the academic standards or curriculum of primary, middle, and secondary level education.

178. Individual school entities have the sole discretion to determine the most appropriate curriculum to implement and meet the academic standards identified in Chapter 4 of the State Board of Education regulations. See 22 Pa. Code §§ 4.21(i); 4.22(e); 4.23(g).

179. Respondents' CRSE Guidelines require action intended to alter the curriculum used by school districts by requiring educators to "[i]dentify and make efforts to remove bias in their teaching materials, assignments, curriculum, and resource allocation." See Ex. A, CRSE 2.D.

180. Respondents' CRSE Guidelines require action intended to alter the curriculum utilized by school districts by requiring educators to "[d]isrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness." Exhibit A, CRSE 2.F.

181. Respondents' CRSE Guidelines require action intended to alter the curriculum utilized by school district by requiring educators to "[d]esign learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world." Exhibit A, CRSE 2

182. The requirements of Respondents' CRSE Guidelines are intended to alter curriculum to conform with the ideological tenets of Respondents as set forth in the CRSE Guidelines.

183. Respondents' CRSE Guidelines usurp the power of local school entities to determine the most appropriate curriculum to implement within the school district so that the school district's student meet the academic standards set forth in Chapter 4 of the State Board of Education regulations.

WHEREFORE, Petitioners respectfully request a declaration that the Respondents' CRSE Guidelines improperly usurp the authority of local school entities, and that the Guidelines are void *ab initio*.

COUNT V – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines call for improper civil disobedience and require educators to “disrupt” lawfully enacted policies and practices of school districts.

184. Paragraphs 1 through 183 are incorporated by reference as if set forth fully herein.

185. As set forth above, Respondents' CRSE Guidelines require educators in the Commonwealth of Pennsylvania to, “[d]isrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness.” See Ex. A, CRSE2.F.

186. The CRSE Guidelines not only suggest but require that educators question, disrupt, and attempt to change the practices of the school entities that do not conform to the ideological tenets of Respondents.

187. These provisions of the CRSE Guidelines are a directive and mandate for educators to engage in conduct contrary to the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), the rights guaranteed public school student in Chapter 12 of the State

Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), and the provisions of the Public School Code, 24 P.S. §1-101, et seq.

188. Respondents' mandates set forth above are vague, ambiguous, overly broad, not clearly defined, not objectively measurable, not based upon the curricular standards outlined in Chapter 4 and 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), in violation of Chapter 12 of the State Board of Education regulations, inconsistent with the provisions of the Public School Code, 24 P.S. §1-101, et. seq., and require compelled speech, beliefs, and behaviors.

189. Respondents' mandates set forth above are incapable of equitable, unbiased, objective enforcement or application.

190. One educator's helpful and appropriate institutional practice, policy, or norm is another educator's harmful institutional practice, policy, or norm, and the even smallest of school districts have many, many educators with countless beliefs related to the practices, policies, and norms of their school districts.

191. The mere attempt to discuss, let alone disrupt, an institutional practice, policy, or norm could constitute a microaggression under Respondents' CRSE Guidelines.

192. Most certainly any attempt to defend or prevent such a disruption challenging an institutional practice, policy, or norm will be deemed a microaggression by the individual challenging the institutional practice, policy, or norm.

193. This scenario will be repeated over and over as proponents of Respondents' ideological tenets attempt to impose them on educators, students, parents, and community members that do not support or believe in Respondents' ideological tenets.

194. As a matter of public policy, the call for civil disobedience, disruption, and insubordination contained in the CRSE Guidelines are contrary to the Code of Professional Practice and Conduct for Educators (22 Pa. Code §235.1, et seq.), the rights guaranteed public school student in Chapter 12 of the State Board of Education regulations (22 Pa. Code §4.1, et seq., §12.1, et seq.), and the provisions of the Public School Code, 24 P.S. §1-101, et seq.

WHEREFORE, Petitioners respectfully request a declaration that Respondents' CRSE Guidelines are void *ab initio*, as against public policy.

COUNT VI – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines violate Petitioners' constitutional rights under the United States and Pennsylvania Constitutions.

195. Paragraphs 1 through 194 are incorporated by reference as if set forth fully herein.

196. The First Amendment to the United States Constitution provides that,

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

U.S. Const., Amend. I.

197. Article 1, Section 7 of the Pennsylvania Constitution provides that,

The printing press shall be free to every person who may undertake to examine the proceedings of the Legislature or any branch of government, and no law shall ever be made to restrain the right thereof. The free communication of thoughts and opinions is one of the invaluable rights of man, and every citizen may freely speak, write and print on any subject, being responsible for the abuse of that liberty. No conviction shall be had in any prosecution for the publication of papers relating to the official conduct of officers or men in public capacity, or to any other matter proper for public investigation or information, where the fact that such publication was not maliciously or negligently made shall be established to the satisfaction of the jury; and in all indictments for libels the jury shall have the right to determine the law and the facts, under the direction of the court, as in other cases.

Pa. Const., art. 1, § 7.

198. As stated by Chief Justice Saylor of the Pennsylvania Supreme Court,

[t]he First Amendment prohibits Congress from abridging the freedom of speech. This prohibition applies to the States through the Fourteenth Amendment. The “heart” of the First Amendment “has been described as the ‘ineluctable relationship between the free flow of information and a self-governing people.’

. . .

In light of the above, the government generally lacks the authority to restrict expression based on its message, topic, ideas, or content. This means the state may not proscribe speech due to its own disagreement with the ideas expressed, or because those ideas are unpopular in society.

Commonwealth v. Knox, 190 A.3d 1146, 1154 (Pa. 2018); *citing Ashcroft v. ACLU*, 535 U.S. 564, 573 (2002); *R.A.V. v. City of St. Paul*, 505 U.S. 377, 382 (1992); *Texas v. Johnson*, 491 U.S. 397, 414 (1989).

199. It is well-settled that restrictions on free speech which are content based are subject to strict scrutiny. *See Free Speech Coalition, Inc. v. Attorney General of U.S.*, 677 F.3d 519, 533 (3d. Cir. 2012).

200. As stated by Justice Kennedy of the United States Supreme Court, “[t]he principal inquiry in determining content neutrality, in speech cases generally and in time, place, or manner cases in particular, is whether the government has adopted a regulation of speech because of disagreement with the message it conveys. The government’s purpose is the controlling consideration.” *Ward v. Rock Against Racism*, 491 U.S. 781, 791

(1989); *citing Clark v. Community for Creative Non-Violence*, 468 U.S. 288, 293 (1984).

201. Respondents' CRSE Guidelines, particularly Competency 9, require educators to "[e]ducate oneself about microaggressions and their impact on diverse learners, educators, and families, and actively disrupt the practice by naming and challenging its use." See Ex. A, Pg. 6.

202. Competency 9 sets forth the following "standards" that a professional educator must abide by:

CRSE9.A – Believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.

CRSE9.B – Take responsibility for informing themselves about the various types of microaggressions and the specific communities and subgroups harmed by these practices.

CRSE9.C – Inform themselves about the long-term impact of unchecked microaggressions on the mental and emotional health of BIPOC and other marginalized learners, educators, educational leaders, and families.

CRSE9.D – Understand the relationship between the impact and intent.

CRSE9.E – Create learning communities and spaces that are inclusive and free of destructive and harmful microaggressions.

CRSE9.F – Actively counter deficit-based and invalidating behavior in themselves and others by engaging in affirming practices.

CRSE9.G – Engage in critically reflexive practices.

See Ex. A, Pg. 6.

203. While the term, “microaggression,” is not defined under Pennsylvania law and is a term not recognized by Pennsylvania law, Respondents’ CRSE Guidelines defines microaggression as, “a comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group (such as a racial minority).” See Ex. A, Pg. 7.

204. Respondents’ definition of “microaggression,” and the regulation of “microaggressions” in Competency 9 of the Department’s CR-SE “Guidelines,” constitute a content-based infringement upon the Teacher Petitioners’ right to free speech secured by the United States and Pennsylvania Constitutions.

205. Respondents’ regulation of “microaggressions” is content based restrictions on free speech.

206. Respondents’ CRSE Guidelines seek to proscribe and compel speech in conformity with the ideological tenets of Respondents.

207. Respondents’ CRSE Guidelines seek to restrict, prohibit, and eliminate any speech that is subjectively perceived as not in conformity with the ideological tenets of Respondents.

208. Even more egregious, Respondents' CRSE Guidelines seek to regulate and proscribe speech that, by Respondents' own definition acknowledges is "[subtle] and often unconscious[]" or unintentional[]" speech.

209. Respondents' CRSE Guidelines cannot survive any applicable standard of review and do not further a compelling governmental interest.

210. Respondents' CRSE Guidelines are not narrowly tailored to achieve any compelling governmental interest. To the contrary, the Guidelines are impermissibly and overly broad.

211. Respondents' CRSE Guidelines constitute an impermissible restraint of the free speech rights in violation of Petitioners constitution rights.

WHEREFORE, Petitioners respectfully request a declaration that Respondents' CRSE Guidelines constitute an unconstitutional restraint on Free Speech and constitute compelled and mandated speech, and that the Guidelines are therefore void *ab initio*.

COUNT VII – DECLARATORY JUDGMENT

Superintendent Petitioner and Teacher Petitioners v. Respondents

Respondents' CRSE Guidelines violate the Code of Professional Practice and Conduct for Educators.

212. Paragraphs 1 through 211 are incorporated by reference as if set forth fully herein.

213. Superintendent Petitioner, together with the Teacher Petitioners, are subject to the Pennsylvania Code of Professional Practice and Conduct for Educators. See 24 P.S. § 2070.5.

214. Section 235.5b of the Code of Professional Practice and Conduct for Educators provides that, “[i]n fulfillment of the commitment to colleagues, educators: 1. Shall not knowingly and intentionally deny or impede a colleague in the exercise or enjoyment of a professional right or privilege in being an educator . . . 5. Shall not interfere with a colleague’s exercise of political or civil rights and responsibilities.”

215. Section 235.2(b) of the Code of Professional Practice and Conduct for Educators provides that,

Violations of any of the duties prescribed by this chapter may be used as supporting evidence in disciplinary proceedings conducted by or on behalf of the PSPC under the act. Violations of this chapter may also be an independent basis for a public or private reprimand. Discipline for conduct that constitutes both a basis for discipline under the act and an independent basis for discipline under this chapter shall not be limited to a public or private reprimand. Nothing in this chapter shall be construed to otherwise limit the Department of Education's authority to initiate an action under the act to suspend, revoke or otherwise discipline an educator's certificate or employment eligibility, or both.

22 Pa. Code Section § 235.2(b)

216. Respondents’ CRSE Guidelines, in part, require educators to “[k]now and acknowledge that biases exist in the educational system;”

“[d]isrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness;” and “[c]hallenge their own beliefs, attitudes, assumptions, and behaviors regarding the knowledge and backgrounds of dominant and non-dominant social groups, thinking critically about the nuances of culture identity, and other social markers, and how they manifest themselves in curricula and other educational materials.” See Ex. A, Pgs. 2-3.

217. The Guidelines will force the Teacher Petitioners and Superintendent Petitioner to forego their own beliefs as educators to the extent that their beliefs do not conform with the ideological tenets of Respondents as set forth in the CRSE Guidelines.

218. The Guidelines will force the Teacher Petitioners to, “[d]isrupt harmful institutional practices, policies, and norms,” within the District, including disrupting the practices, policies and norms of their fellow educators if the same constitutes what the Department has labeled a “harmful practice.”

219. These requirements contained in the Guidelines place the Teacher Petitioners and the Superintendent Petitioner in an impossible position: either violate their Code of Professional Conduct by “disrupting” a colleague’s exercise of political or civil rights and responsibilities; or comply

with their Code of Professional Conduct and ignore the Department's CR-SE "Guidelines."

WHEREFORE, Teacher Petitioners and Superintendent Petitioner respectfully request a declaration that Respondents' CRSE Guidelines are inconsistent with, and consequently violate the Code of Professional Practice and Conduct for Educators, and that the "Guidelines" are void *ab initio*.

COUNT VIII – DECLARATORY JUDGMENT

Petitioners v. Respondents

Respondents' CRSE Guidelines violate Non-Delegation Doctrine.

220. Paragraphs 1 through 219 are incorporated by reference as if set forth fully herein.

221. Article II, Section 1 of the Pennsylvania Constitution provides that,

The legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.

Pa. Const., art. II, § 1.

222. The mandate set forth in Article II, Section 1 of the Pennsylvania Constitution has resulted in what has been termed the "Non-Delegation Doctrine."

223. The Non-Delegation Doctrine has been explained by Mr. Justice Wecht in the case of *Protz v. Workers' Compensation Appeal Board (Derry Area School District)*, 161 A.3d 827 (Pa. 2017), as follows:

Article II, Section 1 of the Pennsylvania Constitution states that “[t]he legislative power of this Commonwealth shall be vested in a General Assembly, which shall consist of a Senate and a House of Representatives.” Pa. Const., art. II, § 1. That is why, when the General Assembly empowers some other branch or body to act, our jurisprudence requires “that the basic policy choices involved in ‘legislative power’ actually be made by the [l]egislature as constitutionally mandated.” *Tosto v. Pa. Nursing Home Loan Agency*, 460 Pa. 1, 331 A.2d 198, 202 (1975). This constraint serves two purposes. First, it ensures that duly authorized and politically responsible officials make all of the necessary policy decisions, as is their mandate per the electorate. *Wm. Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269, 291 (1975) (plurality opinion). And second, it seeks to protect against the arbitrary exercise of unnecessary and uncontrolled discretionary power.” *Id.*

224. Pursuant to the “Non-Delegation Doctrine,” the General Assembly is prohibited from granting, “to any other branch of government or to any other body or authority,” the power to make law. *Blackwell v. Com.*, *State Ethics Com’n*, 567 A.2d 630, 636 (Pa. 1989); see also *State Bd. or Chiropractic Exam’rs v. Life Fellowship of Pa.*, 272 A.2d 478, 480 (Pa. 1971).

225. The General Assembly is the sole branch of government vested with the authority, “to make laws, and not to make legislators.” John Locke, *Second Treatise of Government*, 87 (R. Cox Ed. 1982); see also *Dep’t of Transp. v. Ass’n of Am. Railroads*, 135 S.Ct. 1225 (2015) (Alito, J.

concurring) (“[t]he principle that Congress cannot delegate away its vested power exists to protect liberty.”)

226. Despite the principle that the General Assembly has the power to make law, and it cannot constitutionally delegate such authority to any other branch of government, the General Assembly may still delegate authority, “in connection with the execution and administration of a law to an independent agency or an executive branch agency where the General Assembly first establishes primary standards and imposes upon others the duty to carry out the declared legislative policy in accordance with the general provisions of the enabling legislation.” *Blackwell*, 567 A.2d at 637.

227. In such a circumstance where the General Assembly chooses to delegate authority, two critical limitations apply.

228. The first is that “the basic policy choices must be made by the [l]egislature;” and the second is that “the legislation must contain adequate standards which will guide and restrain the exercise of the delegated administrative functions.” *Blackwell*, 567 A.2d at 637; *citing Gilligan v. Pa. Horse Racing Commission*, 422 A.2d 487, 489 (Pa. 1980).

229. The General Assembly has not delegated any authority to the Department of Education or the State Board of Education to issue the CRSE Guidelines.

WHEREFORE, Petitioners respectfully request a declaration that Respondents' CRSE Guidelines violate Pennsylvania's Non-Delegation Doctrine and are void *ab initio*.

STATEMENT OF RELIEF SOUGHT

WHEREFORE, Petitioners respectfully request an Order of Court:

1. declaring that no existing statute or regulation authorizes the Department of Education to issue its CR-SE "Guidelines";
2. declaring that the Department of Education's CR-SE "Guidelines" are a substantive rule establishing a standard of conduct which has the force of law, and thus are in reality a regulation that must be promulgated in accordance with Pennsylvania's Regulatory Review Act;
3. declaring that the Department of Education's CR-SE "Guidelines" were not subjected to Pennsylvania's Regulatory Review Act, and thus are void *ab initio*;
4. declaring that the Department of Education's CR-SE "Guidelines" constitute compelled speech relative to Teacher Petitioners, and thus are facially unconstitutional and void *ab initio*;
5. declaring that the Department of Education's CR-SE "Guidelines" are unconstitutionally vague, and thus are void *ab initio*;
6. declaring that the Department of Education's CR-SE "Guidelines" impermissibly usurp the power of local boards of school directors and school districts to determine and establish their own curriculum;
7. declaring that the Department of Education's CR-SE "Guidelines" are void as against public policy as such standards require and mandate insubordination and civil disobedience of educators in the Commonwealth of Pennsylvania;

8. declaring that the Department of Education's CR-SE "Guidelines" are an unconstitutional, content-based infringement of the free speech rights of Teacher Petitioners;

9. declaring that the Department of Education's CR-SE "Guidelines" are inconsistent with, and violative of, Pennsylvania's Code of Professional Practice and Conduct for Educators; and

10. declaring that the Department of Education's CR-SE "Guidelines" violate Pennsylvania's Non-Delegation Doctrine, and thus are void *ab initio*.

11. Such other relief as this Honorable Court may deem appropriate under the circumstances.

12. Subsequent to making the Declaration sought above, to issue any Order necessary to implement and enforce the Court's Declaration pursuant to the Declaratory Judgment Act.

13. Requiring Respondents to pay the costs of these proceedings.

Respectfully Submitted,

**DILLON, McCANDLESS, KING,
COULTER & GRAHAM, L.L.P.**

Dated: April 17, 2023

By: /s/ Thomas W. King, III
Thomas W. King, III
PA. I.D. No. 21580
tking@dmkcg.com
Thomas E. Breth
PA. I.D. No. 66350
tbreth@dmkcg.com
Stephenie G.A. Scialabba
PA. I.D. No. 322560
sscialabba@dmkcg.com

Counsel for Petitioners

*Special Counsel for the Thomas More
Society*



Culturally-Relevant and Sustaining Education (CR-SE) Program Framework Guidelines

Introduction

On April 23, 2022, the final form amendments to **Chapter 49 (relating to Certification of Professional Personnel)** of Title 22 of the Pennsylvania Code became effective upon publication in the *Pennsylvania Bulletin*.¹

22 Pa. Code § 49.14(4)(i) requires the Pennsylvania Department of Education (PDE) to identify competencies and develop associated standards for educator training in culturally relevant and sustaining education (CR-SE).

Chapter 49 requires instruction in CR-SE to be integrated in educator preparation, induction, and continuing professional development programs as follows:²

- Continuing professional development programs must integrate the CR-SE competencies no later than the 2023-24 academic year.
- Educator preparation and induction programs must integrate CR-SE competencies no later than the 2024-25 academic year.

22 Pa. Code § 49.1 defines several terms and their definitions are provided in the glossary.

¹ <https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol52/52-17/624.html&continued=/secure/pabulletin/data/vol52/52-17/624a.html&d=reduce>

² <https://www.pacodeandbulletin.gov/Display/pabull?file=/secure/pabulletin/data/vol52/52-17/624.html&continued=/secure/pabulletin/data/vol52/52-17/624a.html&d=reduce>

COMPETENCIES: CULTURALLY RELEVANT AND SUSTAINING EDUCATION (CR-SE)

COMPETENCY 1

Reflect on One's Cultural Lens

Professional Educators:

Standard	Competency
CRSE1.A	Reflect on their own life experiences and membership to various identity groups (race, skin color, ethnicity, gender identity, age, nationality, language, class, economic status, ability, level of education, sexual orientation, and religion).
CRSE1.B	Understand that they, like everyone, can unwittingly adopt societal biases that can shape the nature of their interactions with groups and individuals.
CRSE1.C	Engage in critical and difficult conversations with others to deepen their awareness of their own conscious/unconscious biases, stereotypes, and prejudices.
CRSE1.D	Reflect on how they meet the needs of each learner.

COMPETENCY 2

Identify, Deepen Understanding of, and Take Steps to Address Bias in the System

Professional Educators:

Standard	Competency
CRSE2.A	Know and acknowledge that biases exist in the educational system.
CRSE2.B	Understand the importance of social markers, such as race, skin color, ethnicity, gender identity, age, nationality, language, class, economic status, ability, sexual orientation, and religion.
CRSE2.C	Identify literature and professional learning opportunities for themselves to understand more about the manifestations of racism and other biases at institutional and structural levels that can result in disadvantaging some groups of learners, educators, educational leaders, and families while privileging others.
CRSE2.D	Identify and make efforts to remove bias in their teaching materials, assignments, curriculum, and resource allocation.
CRSE2.E	Recognize schools' history of inequities and institutional biases and their consequences.
CRSE2.F	Disrupt harmful institutional practices, policies, and norms by advocating and engaging in efforts to rewrite policies, change practices, and raise awareness.

COMPETENCY 3

Design and Facilitate Culturally Relevant Learning that Brings Real World Experiences into Educational Spaces

Professional Educators:

Standard	Competency
CRSE3.A	Respect the real-world experiences of learners, educators, educational leaders, families, and caregivers and the diverse funds of knowledge they bring into educational spaces.
CRSE3.B	Integrate multiple perspectives into learning experiences and interactions that capitalize on learners' real-world experiences, identities, and heritage.
CRSE3.C	Recognize that learners are connected to local and global communities and events that influence and impact their learning and their relationship to and understanding of their social worlds.
CRSE3.D	Challenge their own beliefs, attitudes, assumptions, and behaviors regarding the knowledge and backgrounds of dominant and non-dominant social groups, thinking critically about the nuances of culture, identity, and other social markers, and how they manifest themselves in curricula and other educational materials.
CRSE3.E	Design learning experiences and spaces for learners to identify and question economic, political, and social power structures in the school, community, nation, and world.
CRSE3.F	Provide rigorous learning experiences and relevant projects in culturally supportive spaces that integrate advocacy skills, deep listening and thinking, collaboration, resource gathering, and strategic actions.

COMPETENCY 4

Provide All Learners with Equitable and Differentiated Opportunities to Learn and Succeed

Professional Educators:

Standard	Competency
CRSE4.A	Make fair and equitable instructional and assessment decisions to ensure all learners have equitable access to educational resources, experiences, and opportunities.
CRSE4.B	Create an equitable learning environment by challenging and debunking stereotypes and biases about the intelligence, academic ability, and behavior of Black, Indigenous, and People of Color (BIPOC) and other historically marginalized learners, educators, educational leaders, families, and caregivers.
CRSE4.C	Utilize differentiated methods of communication to articulate clear expectations aligned with the ability of each learner, which allows them to demonstrate knowledge through differentiated modalities.
CRSE4.D	Provide multiple pathways and opportunities for students to achieve academic and social success.

COMPETENCY 5

Promote Asset-based Perspectives about Differences

Professional Educators:

Standard	Competency
CRSE5.A	Recognize diversity as an asset to the entire learning community and treat it as such.
CRSE5.B	Show respect for every BIPOC learner, educator, educational leader, and family across cultural, racial, and linguistic differences.
CRSE5.C	Assess how learners from different backgrounds experience the environment and encourage them to reflect on their own experiences with bias.
CRSE5.D	Exhibit sensitivity to the ways in which BIPOC learners, educators, educational leaders, families, and guardians experience social and academic spaces.
CRSE5.E	Assist learners in valuing their own and others' cultures and help them develop a sense of responsibility for recognizing, responding to, and addressing bias, discrimination, injustice, and bullying.

COMPETENCY 6

Collaborate with Families and Communities through Authentic Engagement Practices

Professional Educators:

Standard	Competency
CRSE6.A	Believe that every family, regardless of their race, skin color, ethnicity, gender identity, age, nationality, language, class, economic status, ability, level of education, sexual orientation, and religion wants the best for their children.
CRSE6.B	View the cultural aspects of the community as an extension of their teaching spaces.
CRSE6.C	Value every family as an asset and resource.
CRSE6.D	Understand the nuances of diverse families and the wide range of factors that shape how families interact with educators and schools.
CRSE6.E	Identify systems, structures, practices, and policies that exclude and marginalize BIPOC and multilingual families, families living in poverty, and families with varying sexual orientations and gender identities.
CRSE6.F	View family and community engagement as a priority.

COMPETENCY 7

Communicate in Linguistically and Culturally Responsive Ways that Demonstrate Respect for Learners, Educators, Educational Leaders, and Families

Professional Educators:

Standard	Competency
CRSE7.A	Understand and honor the ways in which culture influences verbal and nonverbal communication.
CRSE7.B	Employ diverse channels to communicate with families in their first language.
CRSE7.C	Honor and respect the home language of learners and their families.
CRSE7.D	Exhibit an awareness of the multi-dialectical nature of language in American society and the social constructs of different dialects, including learners' natural ways of talking.
CRSE7.E	Believe that all learners have a choice and a right to practice the language(s) of their culture.

COMPETENCY 8

Establish High Expectations for Each Learner and Treat Them as Capable and Deserving of Achieving Success

Professional Educators:

Standard	Competency
CRSE8.A	Understand the importance of having high expectations for all learners, including BIPOC students.
CRSE8.B	Communicate expectations and a clear framework for all learners (specifically individuals from diverse backgrounds), which clarify and articulate the standards to which they are being held.
CRSE8.C	Foster positive learning spaces that nurture creativity, build high self-esteem, support agency, and lead to self-actualization for all learners (including those from disadvantaged and historically marginalized backgrounds).
CRSE8.D	Recognize and respect that learners have agency and are capable of contributing to their own learning.
CRSE8.E	Establish authentic relationships with learners.
CRSE8.F	Recognize the integral role families play in their students' education and work closely with families and learners to set mutually agreed-upon goals and devise a plan for accountability that is supported by all individuals.

COMPETENCY 9

Educate Oneself About Microaggressions and their Impact on Diverse Learners, Educators, and Families, and Actively Disrupt the Practice by Naming and Challenging its Use

Professional Educators:

Standard	Competency
CRSE9.A	Believe and acknowledge that microaggressions are real and take steps to educate themselves about the subtle and obvious ways in which they are used to harm and invalidate the existence of others.
CRSE9.B	Take responsibility for informing themselves about the various types of microaggressions and the specific communities and subgroups harmed by these practices.
CRSE9.C	Inform themselves about the long-term impact of unchecked microaggressions on the mental and emotional health of BIPOC and other marginalized learners, educators, educational leaders, and families.
CRSE9.D	Understand the relationship between impact and intent.
CRSE9.E	Create learning communities and spaces that are inclusive and free of destructive and harmful microaggressions.
CRSE9.F	Actively counter deficit-based and invalidating behavior in themselves and others by engaging in affirming practices.
CRSE9.G	Engage in critically reflexive practice.

A Creative Commons Attribution 4.0 International license permits re-use of New America content. These competencies were adapted from Muñiz, Jenny. 2019. *Culturally Responsive Teaching: A Reflection Guide*. 2020. New America Foundation.

https://newamerica.org/documents/5724/Culturally_Responsive_Teaching_A_Reflection_Guide_2021_WAMBwaO.pdf.

APPENDIX A GLOSSARY

Cultural Awareness: Cultural awareness is defined as understanding, consideration and integration of individuals' culture, language, heritage, and experiences. (Source: [22 Pa. Code § 49.1.](#))

Culturally-Relevant and Sustaining Education (CR-SE): Education that ensures equity for all students and seeks to eliminate systemic institutional racial and cultural barriers that inhibit the success of all students in this Commonwealth—particularly those who have been historically underrepresented. CR-SE encompasses skills for educators including, but not limited to, approaches to mental wellness, trauma-informed approaches to instruction, technological and virtual engagement, cultural awareness, and emerging factors that inhibit equitable access for all students in this Commonwealth. (Source: [22 Pa. Code § 49.1.](#))

Diverse Learner: A student who because of limited English language proficiency or disabilities may have academic needs that require varied instructional strategies to help the student learn. (Source: [22 Pa. Code § 49.1.](#))

Equity: Equity in education is defined as every student having access to the resources and rigor they need at the right moment in their education across race, gender, ethnicity, language, disability, religion, sexual orientation, gender identity, family background and/or family income. (Source: [Equity, Inclusion and Belonging in Pennsylvania](#). Pennsylvania Department of Education).

Historically Underrepresented Groups: Groups that are documented to have been represented across time in the educator population in proportions below their representation in the general population. These include, but are not limited to, people of color and the economically disadvantaged. (Source: [22 Pa. Code § 49.1.](#))

Marginalized: Relegated to a marginal position within a society or group; excluded from or existing outside the mainstream of society, a group, or a school of thought. (Source: *Merriam-Webster.com Dictionary*, Merriam-Webster, [Marginalized](#); [Marginal](#))

Microaggression: A comment or action that subtly and often unconsciously or unintentionally expresses a prejudiced attitude toward a member of a marginalized group (such as a racial minority). (Source: *Merriam-Webster.com Dictionary*, Merriam-Webster, [Microaggression](#))

Reflexivity: The act of being directed or turned back on itself; marked by or capable of reflection. (Source: *Merriam-Webster.com Dictionary*, Merriam-Webster, [Reflexive](#))

Trauma-informed approaches to instruction: Pedagogy that recognizes the signs and symptoms of trauma and integrates knowledge about trauma for the purpose of promoting resiliency among students. (Source: [22 Pa. Code § 49.1.](#))

APPENDIX B ACKNOWLEDGMENTS

The Pennsylvania Department of Education recognizes the following organizations and individuals in the development of these competencies:

- Pennsylvania State Board of Education for leading the process to update the Chapter 49 regulations
- Pennsylvania Association of Colleges and Teacher Educators for identifying and recommending members to PDE's Culturally-Relevant and Sustaining Education (CR-SE) Working Group
- Culturally-Relevant and Sustaining Education Working Group Members: Dr. Reuben Selase Asempapa (Pennsylvania State University Harrisburg); Dr. Juliet Curci (Temple University); Dr. Leighann S. Forbes (Gannon University); Jill McNeish (Mount Union School District); Dr. Constance Nichols (Grove City College); Dr. James Preston (Slippery Rock University); Dr. Kathleen Reeves (Temple University); Dr. Amy Rogers (Lycoming College); Dr. Laura Roy (La Salle University); Dr. Ronald W. Whitaker II (Cabrini University)
- Educator preparation program faculty for participating in the Listening Sessions to review and provide input to the draft developed by the CR-SE Working Group
- The original authors and contributors of the draft CR-SE competencies who were members of the Aspiring to Educate Work Group within the Temple University Institution of Higher Education Educator Diversity Consortium that became the Pennsylvania Educator Diversity Consortium: Dr. Donna-Marie Cole-Malott (former PDE contractor); Karen Parker Thompson (subcontractor to the Region IV Comprehensive Center); Dr. Rochelle Peterson-Ansari, Dr. Trent McLaurin, and Dr. Laura Roy (La Salle University); Dr. Ronald W. Whitaker II (Cabrini University); Dr. Marc Brasof and Dr. Priscilla Jeter-Iles (Arcadia University); Dr. Megeara Glah Mabry and Dr. Tamara Sniad (Temple University); Dr. Larry Keiser (Drexel University); Dr. David Monk (former PDE contractor); and Dr. Beverly Mattson and Tandra Turner (subcontractor to the Region IV Comprehensive Center)
- Colleagues at the Pennsylvania Training and Technical Assistance Network in Harrisburg who supported PDE in the facilitation of the working groups and listening sessions

VERIFICATION

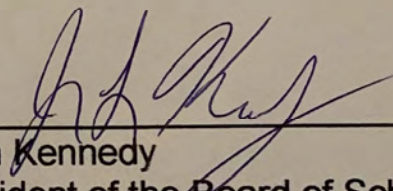
I, Timothy Redfoot, President of the Laurel School Board of Directors, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Timothy Redfoot
President of the Laurel School
Board of Directors

VERIFICATION


I, John Kennedy, President of the Board of School Directors of Mars Area School District, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



John Kennedy
President of the Board of School
Directors of Mars Area School
District

VERIFICATION

I, Luigi DeFrancesco, President of the Penncrest School Board of Directors, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Luigi DeFrancesco
President of the Penncrest School
Board of Directors

VERIFICATION

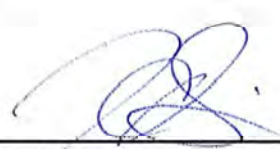
I, Leonard A. Rich, Superintendent of Laurel School District, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Leonard A. Rich
Superintendent of Laurel School
District

VERIFICATION

I, Justin Simon, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Justin Simon

VERIFICATION

I, Matt Barker, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Matt Barker

VERIFICATION

I, Lisa Bartlett, individually and on behalf of L.B., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Lisa Bartlett

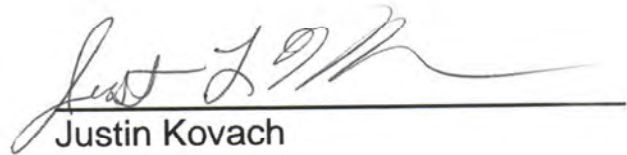
VERIFICATION

I, Matthew Bartlett, individually and on behalf of L.B., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Matthew Bartlett

VERIFICATION


I, Justin Kovach, individually and on behalf of A.K., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Justin Kovach

VERIFICATION

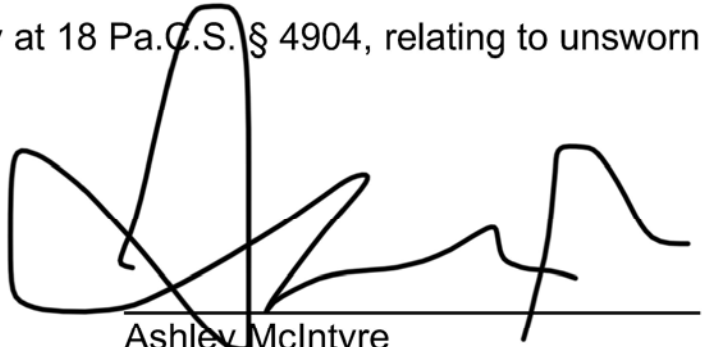
I, Kelsie Kovach, individually and on behalf of A.K., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Kelsie Kovach

VERIFICATION

I, Ashley McIntyre, individually and on behalf of M.M., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Ashley McIntyre

VERIFICATION

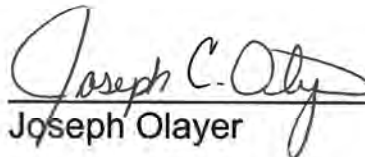
I, Sheldon McIntyre, individually and on behalf of M.M., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

A handwritten signature in black ink, appearing to read 'Sheldon McIntyre', is written over a horizontal line. The signature is stylized with large, sweeping loops.

Sheldon McIntyre

VERIFICATION

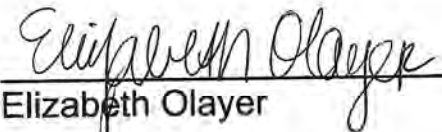
I, Joseph Olayer, individually and on behalf of N.O., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Joseph Olayer

VERIFICATION

I, Elizabeth Olayer, individually and on behalf of N.O., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Elizabeth Olayer

VERIFICATION

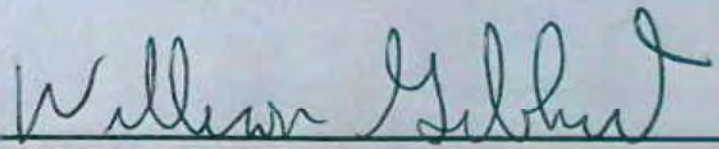
I, Sallie Wick, individually and on behalf of A.W., a minor, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Sallie Wick

VERIFICATION

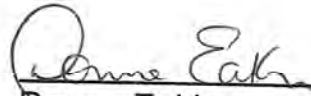
I, William Gebhart, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



William Gebhart

VERIFICATION

I, Donna Eakin, am authorized to make this verification. I verify that the statements made in the foregoing document are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of perjury at 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.


Donna Eakin

CERTIFICATE OF COMPLIANCE

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

/s/ Thomas W. King, III
Thomas W. King, III