



The Pennsylvania Association of State Colleges and Universities

May 4, 2015

Hon. Denise J. Smyler, General Counsel
333 Market Street, 17th Floor
Harrisburg, PA 17101

Dear General Counsel Smyler,

I am writing to file a complaint against the Board of Governors (BOG) of the Pennsylvania State System of Higher Education (PASSHE), the State agency created and controlled by Act 188 of 1982, which in turn controls the 14 PASSHE, a.k.a., "State-owned" universities including Bloomsburg, California, Cheyney, Clarion, East Stroudsburg, Edinboro, Indiana, Kutztown, Lock Haven, Mansfield, Millersville, Shippensburg, Slippery Rock and West Chester Universities.

According to Act 188, the statutory purpose of the PASSHE system of 14 public universities is: "To provide high quality education at the lowest possible cost to the students."

I write today on behalf of the Pennsylvania Association of State Colleges and Universities (PASCU), a non-partisan, non-profit organization with a clear purpose: "The Mission of the Pennsylvania Association of State Colleges and Universities (PASCU) is to ensure that the statutory purpose of public higher education in Pennsylvania as specified by Act 188 of 1982: 'High Quality Education at the Lowest Possible Cost to the Students,' is indefinitely preserved and faithfully delivered."

There would be no need for an organization like PASCU if the PASSHE BOG was in fact now preserving and delivering the Act 188 statutory purpose of public higher education—hence this complaint.

The failure to preserve the statutory purpose manifests itself verbally by a years-long unwillingness by PASSHE leaders (including recent Chancellors and Board Chairs) to utter the following words in public: "High quality education at the lowest possible cost to the students." PASSHE's new Strategic Plan makes a passing reference to Act 188, but never commits to writing the statutory purpose of the 14 PASSHE universities. Instead, the Strategic Plan offers a PASSHE Vision which ignores and contradicts Act 188.

The failure to deliver PASSHE's Act 188 statutory purpose—high quality education at the lowest possible cost to the students—is much more serious than the failure to say or write the words. But this second failure is preordained. If past and current PASSHE leaders are unwilling to even utter the words, how likely would they be to commit to the hard work needed to transform those words into reality?

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I am aware that, if true, the allegations in this complaint are very serious and would meet or exceed the dictionary.com definition of malfeasance: “Malfeasance is the performance by a public official of an act that is legally unjustified, harmful, or contrary to law.”

All members of the PASSHE Board of Governors are “public officials.” Each one is either an elected official, or has been appointed by elected officials, and each one of them has taken the Commonwealth of Pennsylvania Constitutional Oath of Office.

If true, the assertion that the PASSHE Board of Governors has failed since 2002 to preserve or deliver the Act 188 statutory purpose of the PASSHE system of 14 universities, “High quality education at the lowest possible cost to the students,” would appear to be an act by public officials that is “legally unjustified, harmful, and contrary to law.” (Emphasis added)

The evidence for the truth of this assertion is compelling and plentiful. Numerous PASSHE news releases and newspaper quotes readily document the failure of recent PASSHE leaders to “say those words.”

The failure to deliver “high quality education” is documented by PASSHE’s own official data on constant dollars of total Educational and General Revenue per FTE student, the same proxy measure used by the “rating magazines” to assess the “quality of the total educational experience” at a college or university.

The failure to deliver a PASSHE education “at the lowest possible cost to the students” is documented by comparisons between the financial aid packages of PASSHE students, with those of students who attend “All Institutions” across America, where 70% of America’s college students attend “public” universities.

The Commonwealth Attorney’s Act specifies the powers and duties of the OGC, in part, as follows: “Under the Act, the General Counsel serves as chief legal advisor to the Governor and directs the legal activities of the executive branch.”

The allegations in this complaint predate the election of Gov. Wolf, as well as your appointment as General Counsel, and are not a complaint against the current administration but rather a chance to correct the actions, or inactions, of previous OGC attorneys serving as PASSHE Chief Counsels.

If the allegations in this complaint are true, it is too late to “prevent” the alleged misconduct, but not too late for the Office of General Counsel to investigate it and, if appropriate, act to prevent future misconduct. And that is all that PASCU hopes to gain by submitting this complaint.

I will cooperate with any OGC investigation. PASCU’s goal is clear: “The Mission of the Pennsylvania Association of State Colleges and Universities (PASCU) is to ensure that the statutory purpose of public higher education in Pennsylvania as specified by Act 188 of 1982: ‘High Quality Education at the Lowest Possible Cost to the Students,’ is indefinitely preserved and faithfully delivered.”

Please don’t hesitate to contact me if you have any questions. Sincerely,



Angelo Armenti, Jr., Ph.D.
PASCU Founder & President