

July 24, 2024

Pennsylvania Labor Relations Board  
1700 Labor & Industry Building  
Harrisburg, PA 17120

*Via email to: [ra-liplrb-filing@pa.gov](mailto:ra-liplrb-filing@pa.gov)*

**Re: Report of violations of 43 P.S. § 1101.1701 by the Pennsylvania State Education Association and certain of its officers**

Chairman Darby and Members Mezzaroba and Masino,

Pursuant to 34 Pa .Code § 95.112,<sup>1</sup> I write to report significant, willful violations of the Public Employee Relations Act (PERA) by the Pennsylvania State Education Association (PSEA) and certain of its officers and staff including, but not limited to: Richard Askey, Aaron Chapin, Jeffrey Ney, James Vaughn, Joseph Howlett, Lahrsen Harper, and David Taylor (“the PSEA Officers”).

Specifically, the PSEA violated the prohibition in 43 P.S. § 1101.1701 against employee organizations using general treasury funds to “make any contribution... either directly or indirectly to any political party or organization or in support of any political candidate for public office” when, in 2022, it illegally used an unregistered political committee to make two contributions totaling \$1,475,000 to the Democratic Governors Association — indisputably a component of the Democratic Party’s political apparatus — which, in turn, contributed the funds to Shapiro for Pennsylvania, the authorized political committee of then-Pennsylvania gubernatorial candidate Josh Shapiro. It then further violated 43 P.S. § 1101.1701 by failing to disclose the prohibited contributions.

Because the PSEA repeatedly and correctly stated in writing to its members that it may not legally use members’ dues to make contributions to political candidates or parties, and because PSEA was respondent to a previous complaint in which the Pennsylvania Labor Relations Board (PLRB) determined, and the PSEA acknowledged, that the PERA prohibits employee organizations like PSEA from contributing general treasury funds to a political candidate or party, the decision(s) of the PSEA Officers, and potentially others, to do so anyway demonstrates that their violations of the PERA were willful.

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<sup>1</sup> 34 P.C § 95.112(a), a PLRB regulation, provides that, “An individual who has knowledge of a political contribution or other activity by an employe organization thought to be in violation of section 1701 of the act (43 P.S. §1101.1701) may file a report with the Board.”

## I. Parties and Facts

### 1. The Pennsylvania State Education Association

Based in Harrisburg, PSEA is registered with the Pennsylvania Department of State as a nonprofit corporation<sup>2</sup> and with the Internal Revenue Service (IRS) as a nonprofit business league under 26 U.S.C. § 501(c)(6).<sup>3</sup> It describes itself as “...the largest and most influential public-sector union in Pennsylvania...”<sup>4</sup> PSEA’s members consist of “...persons actively engaged in the profession of teaching or in other educational work” and “persons interested in advancing the cause of public education.”<sup>5</sup> According to its most recent U.S. Department of Labor Form LM-2, PSEA had 137,087 active members and nearly \$110 million in total receipts in the 2022-23 academic year.<sup>6</sup>

During the 2022 election, PSEA enthusiastically supported Josh Shapiro’s campaign for governor and, just as if not more emphatically, opposed Doug Mastriano’s gubernatorial bid.

For example:

- In December of 2021, PSEA issued an early endorsement of Shapiro’s gubernatorial campaign for the 2022 Democratic primary election.<sup>7</sup>
- A page on PSEA’s website appealed for contributions to a PSEA political committee as a way to, “Help elect a a [sic] pro-public education governor!” in Shapiro.<sup>8</sup>
- As part of its 2022 “voter toolkit,” a page on PSEA’s website featured a glowing profile of Shapiro, describing him in part as, “a rare public servant willing to take on the status quo — ‘a blast of oxygen in the smoke-choked back rooms of quid-pro-quo Harrisburg.’”<sup>9</sup>
- The September and November 2022 issues of the union’s member newsletter, *PSEA Voice* — the final two issues published before that year’s general election — focused

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<sup>2</sup> Pennsylvania Department of State Entity No. 0000722212. A copy of PSEA’s most recent nonprofit corporation annual statement is available online at: <https://www.freedomfoundation.com/wp-content/uploads/2024/06/PSEA-PA-corporate-annual-statement.pdf>

<sup>3</sup> Pennsylvania State Education Association. IRS Form 990 tax return for the 2021-22 academic year. [https://apps.irs.gov/pub/epostcard/cor/230961125\\_202208\\_9900\\_2023060521366278.pdf](https://apps.irs.gov/pub/epostcard/cor/230961125_202208_9900_2023060521366278.pdf)

<sup>4</sup> Pennsylvania State Education Association. “What exactly is PSEA?” <https://www.psea.org/about-psea/benefits-of-membership/>

<sup>5</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” Article III, paragraph 2. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

<sup>6</sup> Pennsylvania State Education Association, U.S. Department of Labor Form LM-2. November 22, 2023. <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

<sup>7</sup> Pennsylvania State Education Association. “PSEA recommends Josh Shapiro in Democratic gubernatorial primary.” December 21, 2021. <https://www.psea.org/news--events/newsstand/press-center/news-release---december-21-2021/>

<sup>8</sup> Pennsylvania State Education Association. “Help elect a a [sic] pro-public education governor!” <https://www.psea.org/issues-action/action-center/psea-pace---shapiro/>

<sup>9</sup> Pennsylvania State Education Association. “Josh Shapiro.” <https://www.psea.org/issues-action/action-center/voter-toolkit/election-2022/josh-shapiro>

extensively, even predominantly, on urging PSEA members and family to vote for Shapiro and against Mastriano, his Republican rival.

- In the September issue, 13 pages (including the cover) of the 32-page publication were devoted to promoting Shapiro’s candidacy and/or opposing Mastriano’s.<sup>10</sup>
- In the November issue, 16 of the first 18 pages of the 32-page publication (including the cover) promoted Shapiro’s candidacy and/or disparaged Mastriano.<sup>11</sup>

Shapiro was the only gubernatorial candidate endorsed by the PSEA who was running for election in 2022.

In addition to communicating its political endorsements internally to its members, PSEA seeks to advance its political preferences externally through the operation of two political funds: PSEA-PACE and the Fund for Student Success.<sup>12</sup>

## 2. PSEA-PACE

PSEA’s most visible political fund is PACE. In materials posted on its website, PSEA describes PACE as, “PSEA’s political action committee for education. Through PSEA members’ voluntary contributions, PACE elects pro-public education candidates who influence your job and your school — from governor to local school boards.”<sup>13</sup>

PSEA-PACE is registered with the IRS as a “political organization” pursuant to 26 U.S.C. § 527,<sup>14</sup> the purpose of which is to support and/or oppose candidates for office.<sup>15</sup> While it has

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<sup>10</sup> Pennsylvania State Education Association. *PSEA Voice*, September 2022. <https://www.pageturnpro.com/PSEA/105982-The-VOICE-September-2022/sdefault.html>

<sup>11</sup> Pennsylvania State Education Association. *PSEA Voice*, November 2022. <https://www.pageturnpro.com/PSEA/106393-The-VOICE-November-2022/sdefault.html>

<sup>12</sup> Item 69 of PSEA’s U.S. Department of Labor Form LM-2 for the 2022-23 academic year notes, “The Association has a political action committee (PAC), PSEA-PACE for State Elections. The PAC files returns with the Pennsylvania Department of State and the Internal Revenue Service. The Association also has a Section 527 organization, Fund for Student Success (Fund). The Fund files returns with the Internal Revenue Service.” Available online at: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form> Similarly, Schedule R, Part II of PSEA’s Internal Revenue Service Form 990 tax return covering the 2021-22 academic year claims both “PSEA-PACE for State Elections” and the “Fund for Student Success” as “related tax-exempt organizations.” Available online at:

[https://apps.irs.gov/pub/epostcard/cor/230961125\\_202208\\_990O\\_2023060521366278.pdf](https://apps.irs.gov/pub/epostcard/cor/230961125_202208_990O_2023060521366278.pdf)

<sup>13</sup> Pennsylvania State Education Association. “What do elections have to do with your job & your school?” [https://www.psea.org/globalassets/issues--action/pace/psea\\_why politics\\_infographic-informational.pdf](https://www.psea.org/globalassets/issues--action/pace/psea_why politics_infographic-informational.pdf) Pennsylvania State Education Association. “What can you do with just \$2?”

[https://www.psea.org/globalassets/issues--action/pace/psea\\_why politics\\_infographic-campaign-002.pdf](https://www.psea.org/globalassets/issues--action/pace/psea_why politics_infographic-campaign-002.pdf)

<sup>14</sup> PSEA-PACE for State Elections. Internal Revenue Service Form 8871. April 3, 2024.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=125263&formType=e8871>

<sup>15</sup> 26 U.S.C. § 527(e)(1) defines “political organization” as, “a party, committee, association, fund, or other organization (whether or not incorporated) and operated primarily for the purpose of directly or indirectly accepting contributions or making expenditures, or both, for an exempt function.” In turn, § 527(e)(2) defines “exempt function” as, “the function of influencing or attempting to influence the selection, nomination, election, or appointment of any individual to any Federal, State, or local public office or office in a political organization, or the election of Presidential or Vice-Presidential electors, whether or not such individual or electors are selected, nominated, elected, or appointed.”

registered with the IRS, PSEA-PACE has elected not to disclose its contributions or expenditures to the IRS on Forms 8872 and to instead disclose its financial transactions to the Pennsylvania Department of State, with which it is registered as a political committee.<sup>16</sup>

Its campaign finance reports indicate that PSEA-PACE is funded mostly or exclusively by contributions received from individuals.<sup>17</sup> Indeed, PSEA regularly solicits its members for contributions to PSEA-PACE above and beyond their membership dues.<sup>18</sup>

In making its pitch to members for PACE contributions, PSEA regularly notes — correctly — that it cannot use members’ dues to contribute to political parties or candidates and implies — incorrectly — that the union relies on members’ voluntary contributions to PACE in order to “amass the financial resources necessary to elect pro-public education candidates and **hold all elected officials accountable.**” (Emphasis original).<sup>19</sup>

- During at least the 2018-19 through 2022-23 school years, PSEA’s membership enrollment forms for both teachers and education support professionals contained the following statement: “No dues dollars may be given to political candidates.”<sup>20</sup>
- A document posted on PSEA’s website entitled, “Questions & Answers about Organizing,” states, “PSEA cannot use dues dollars for direct or in-kind contributions to

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<sup>16</sup> Committee ID no. 7900366. Pennsylvania Department of State. “Committee Information - PSEA-PACE FOR STATE ELECTIONS.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=93>

<sup>17</sup> PSEA-PACE for State Elections. Pennsylvania Department of State Campaign Finance Form. Filed March 11, 2024.

<https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=401635&isStatement=0&is24Hour=0>

<sup>18</sup> Pennsylvania State Education Association. “Contribute to PSEA-PACE.” <https://www.psea.org/issues-action/action-center/psea-pace/>

<sup>19</sup> Pennsylvania State Education Association. “What can you do with just \$2?”

[https://www.psea.org/globalassets/issues--action/pace/psea\\_why politics\\_infographic-campaign-002.pdf](https://www.psea.org/globalassets/issues--action/pace/psea_why politics_infographic-campaign-002.pdf)

<sup>20</sup> PSEA 2018-2019 ESP Enrollment Form: <https://www.psea.org/globalassets/about-psea/files/espenrollmentform.pdf>

PSEA 2019-2020 ESP Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/2019-2020-esp-enrollment-form.pdf>

PSEA 2020-2021 ESP Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/psea---2020-esp-enrollment-form.pdf>

PSEA 2021-2022 ESP Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/psea---2021-esp-enrollment-form.pdf>

PSEA 2022-2023 ESP Enrollment Form: <https://www.psea.org/globalassets/about-psea/files/psea---2022-2023-esp-enrollment-form.pdf>

PSEA 2018-2019 EA Enrollment Form: <https://www.psea.org/globalassets/about-psea/files/eamembershipform.pdf>

PSEA 2019-2020 EA Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/2019-2020--ea-enrollment-form.pdf>

PSEA 2020-2021 EA Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/psea---2020-ea-enrollment-form.pdf>

PSEA 2021-2022 EA Enrollment Form: <https://www.psea.org/globalassets/about-psea/join-psea/psea---2021-ea-enrollment-form.pdf>

PSEA 2022-2023 EA Enrollment Form: <https://www.psea.org/globalassets/about-psea/files/psea---2022-2023-ea-enrollment-form.pdf>

any candidates or political parties. PSEA cannot use dues dollars on activities or communications on behalf of any candidates that go to the public.”<sup>21</sup>

- The multiple pages on PSEA’s website via which members can contribute to PACE note that, “Contributions to PSEA-PACE are voluntary and members have the right to refuse to contribute without reprisal... No dues dollars can be given to political candidates.”<sup>22</sup>
- An article posted on PSEA’s website from March 2018 entitled, “Electoral politics: ‘Party affiliation is secondary,’” quoted then-PSEA-PACE chair Joe Scheuermann on the importance of contributing to PACE:

“Scheuermann noted that raising money through PACE is critical given that many of the attacks on public education are backed by billionaires ‘who can write a check bigger than what we can raise collectively.’ He emphasized that no members’ dues are used to fund political candidates.”<sup>23</sup>

The process by which PSEA-PACE funds candidates for office is explained in Schedule I, Part IV, of its IRS Form 990 tax return for 2020:

“The PSEA-PACE board of directors is responsible for interviewing and recommending candidates for each election cycle. The recommendation process is a bipartisan approach, emphasizing education, health care, and labor issues as well as the PSEA-PACE mission. Contributions are made in support of PSEA-PACE recommended candidates or the candidate’s committee for statewide, legislative, and local offices... Contributions are also made to political action committees at the discretion of the board. Contributions to candidates, candidate’s committees, and political action committees are made in compliance with applicable state and federal laws and may include cover letters specifying the purpose of the contribution. PSEA-PACE for state elections also provides grants and other forms of assistance to various non-profit organizations. Potential organizations are evaluated by the PSEA-PACE board of directors and a determination is made regarding the grant amount. Each grant check is accompanied by a cover letter indicating the purpose of the grant and the use of the funds. The grantee is responsible for maintaining adequate records of the grant expenditures and activities and must allow PSEA-PACE access to such records for verification purposes, if deemed necessary.”<sup>24</sup>

(Emphasis added).

According to campaign finance reports filed with the Pennsylvania Department of State, PSEA-

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<sup>21</sup> Pennsylvania State Education Association. “Questions & Answers About Organizing.” <https://www.psea.org/globalassets/regions/westernregion/organizingqa.pdf>

<sup>22</sup> Pennsylvania State Education Association. “Contribute to PSEA-PACE.” <https://www.psea.org/give>  
<https://www.psea.org/issues-action/action-center/psea-pace/>

<sup>23</sup> Pennsylvania State Education Association. “Electoral politics: ‘Party affiliation is secondary’” *PSEA Voice*. March 2018. <https://www.psea.org/news--events/Publications/voice-march-2018/electoral-politics-party-affiliation-is-secondary/>

<sup>24</sup> PSEA-PACE for State Elections. Internal Revenue Service Form 990 for 2020. <https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=232116856-990POL-18&formType=p990>

PACE made eight contributions to Shapiro for Pennsylvania<sup>25</sup> — the authorized political committee of Josh D. Shapiro, then a candidate for Pennsylvania governor<sup>26</sup> — in 2021-22 totaling more than \$800,000.

<b>PSEA-PACE Contributions to Shapiro for Pennsylvania</b>						
<b>Contributor</b>	<b>Recipient</b>	<b>Amount</b>	<b>Type</b>	<b>Date</b>	<b>Source</b>	<b>Report Link</b>
PSEA-PACE	Shapiro for Pennsylvania	\$25,000	Cash	9/2/2021	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=386821&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=386821&amp;isStatement=0&amp;is24Hour=0</a>
				9/22/2021	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=364609&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=364609&amp;isStatement=0&amp;is24Hour=0</a>
PSEA-PACE	Shapiro for Pennsylvania	\$25,000	Cash	10/15/2021	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=355632&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=355632&amp;isStatement=0&amp;is24Hour=0</a>
				10/15/2021	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=364609&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=364609&amp;isStatement=0&amp;is24Hour=0</a>
PSEA-PACE	Shapiro for Pennsylvania	\$350,000	Cash	2/3/2022	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=366807&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=366807&amp;isStatement=0&amp;is24Hour=0</a>
				3/1/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=366906&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=366906&amp;isStatement=0&amp;is24Hour=0</a>
PSEA-PACE	Shapiro for Pennsylvania	\$31,566	In-kind	6/17/2022	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374637&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374637&amp;isStatement=0&amp;is24Hour=0</a>
				6/13/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>
PSEA-PACE	Shapiro for Pennsylvania	\$100,000	Cash	6/17/2022	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374637&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374637&amp;isStatement=0&amp;is24Hour=0</a>
				6/22/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>
PSEA-PACE	Shapiro for Pennsylvania	\$25,000	Cash	7/7/2022	PACE CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>

<sup>25</sup> Committee ID no. 20160016. Pennsylvania Department of State. “Committee Information - SHAPIRO, JOSH FOR PENNSYLVANIA.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=11696>

<sup>26</sup> Candidate ID no. 2022C0206. Pennsylvania Department of State. “Candidate Information - SHAPIRO, JOSHUA D.” <https://www.pavoterservices.pa.gov/ElectionInfo/CandidateInfo.aspx?ID=19631>

						spx?ReportID=374637&isStatement=0&is24Hour=0
				8/10/2022	Shapiro CFR	https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&isStatement=0&is24Hour=0
PSEA-PACE	Shapiro for Pennsylvania	\$125,000	Cash	10/26/2022	PACE CFR	https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=379993&isStatement=0&is24Hour=0
				10/27/2022	Shapiro CFR	https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=380579&isStatement=0&is24Hour=0
PSEA-PACE	Shapiro for Pennsylvania	\$125,000	Cash	11/3/2022	PACE CFR	https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=379993&isStatement=0&is24Hour=0
				11/9/2022	Shapiro CFR	https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=380579&isStatement=0&is24Hour=0
<b>Total</b>		<b>\$806,566</b>				

### 3. The Fund for Student Success

Despite PSEA’s knowledge that it cannot legally use members’ dues to contribute to political candidates or parties and its representation that the voluntarily-funded PACE is *the only* vehicle the union uses to engage in electoral politics, PSEA in fact maintains a second political committee — the Fund for Student Success (FSS) — that is both funded by members’ dues and far less visible to PSEA’s members.

The only reference to the FSS on PSEA’s website is found in a brief article from the September 2018 edition of *PSEA Voice*, the union’s membership newsletter. The article states:

“In July, the PSEA Board of Directors voted to approve the Fund for Student Success, a new PSEA account that will allow the Association to better communicate with the public about the needs of our students, schools, communities, and professions.

The new account provides PSEA greater flexibility to share news and information with friends, families, and neighbors related to issues, policies, elected officials, and pro-public education candidates.

The Fund for Student Success will not – and legally cannot – provide campaign contributions to candidates, elected officials, or campaign committees. PSEA members can support pro-public education candidates and elected officials through their continued support of PSEA-PACE.”<sup>27</sup>

<sup>27</sup> Pennsylvania State Education Association. “PSEA starts Fund for Student Success.” *PSEA Voice*, September 2018. [https://www.psea.org/globalassets/publications/voice/september-2018/01-32pseavoic0918\\_web.pdf](https://www.psea.org/globalassets/publications/voice/september-2018/01-32pseavoic0918_web.pdf)

(Emphasis added).

Like PSEA-PACE, the FSS is registered with the IRS as a “political organization” under 26 U.S.C. § 527.<sup>28</sup> The FSS’ Form 990 tax return for 2021 explains that it was “established by” the PSEA and that its “governance structure consists of a chairperson and treasurer appointed by the PSEA officers in consultation with the PSEA executive director.”<sup>29</sup> Its Form 8871 filings also indicate that the FSS is “connected” to the PSEA and that the only persons associated with the FSS in an official capacity are PSEA officials.<sup>30</sup>

Just like PSEA-PACE, the function of the FSS is, by definition, to advocate for the election or defeat of political candidates. Unlike PSEA-PACE, however, the FSS is *not* registered as a political committee with the Pennsylvania Department of State, instead disclosing its contributions and expenditures only to the IRS on Forms 8872,<sup>31</sup> and is funded by PSEA’s general treasury.

PSEA’s annual Forms LM-2 filed with the U.S. Department of Labor disclose nine transfers totaling \$3,825,000 from the union’s general treasury to the FSS from its creation in 2018 through August 31, 2023, the last day of the reporting period covered by PSEA’s most recent Form LM-2. The contributions are itemized under Schedule 16, “Political Activities and Lobbying.”<sup>32</sup>

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<sup>28</sup> Fund for Student Success. Internal Revenue Service Form 8871, December 6, 2022.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=118538&formType=e8871>

<sup>29</sup> Fund for Student Success. Internal Revenue Service Form 990, 2021. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Fund-for-Student-Success-IRS-Form-990-2021.pdf>

<sup>30</sup> The FSS’ most recent Form 8871 identifies Phyllis Heverly Flesher as “treasurer,” “custodian of records,” and the “authorized official” who signed and submitted the document. David Taylor is listed as the FSS’ “chair,” and Lahrsen Harper is identified as the “contact person.”

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=118538&formType=e8871>

PSEA’s most recent Form LM-2 identifies Flesher as the union’s assistant executive director, Taylor as a member of the PSEA board of directors, and Harper as assistant director of administration.

<https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

<sup>31</sup> A separate complaint has been filed with the Pennsylvania Department of State alleging the Fund for Student Success violated 25 P.S. § 3244 and related campaign finance statutes by failing to register with the Department as a political committee and file the required reports disclosing its contributions and expenditures.

<sup>32</sup> According to DOL, Schedule 16 is to be used by the filing labor organizations to disclose,

“...the labor organization's direct and indirect disbursements to all entities and individuals during the reporting period associated with political disbursements or contributions in money. Also report the labor organization's direct and indirect disbursements to all entities and individuals during the reporting period associated with dealing with the executive and legislative branches of the Federal, state, and local governments and with independent agencies and staffs to advance the passage or defeat of existing or potential laws or the promulgation or any other action with respect to rules or regulations (including litigation expenses). It does not matter whether the lobbying attempt succeeds. A political disbursement or contribution is one that is intended to influence the selection, nomination, election, or appointment of anyone to a Federal, state, or local executive, legislative or judicial public office, or office in a political organization, or the election of Presidential or Vice Presidential electors, and support for or opposition to ballot referenda. It does not matter whether the attempt succeeds. Include disbursements for communications with members (or agency fee paying nonmembers) and their families for registration, get-out-the-vote and voter education campaigns, the expenses of establishing, administering and soliciting



Similarly, the publicly available Forms 8872 filed with the IRS by the FSS — which cover April 1, 2020, through December 31, 2023 — disclose receipt of eight contributions from PSEA totaling \$3,325,000. The FSS reported no contributions from any source other than PSEA.

<b>PSEA Contributions to the Fund for Student Success</b>					
<b>Contributor</b>	<b>Recipient</b>	<b>Amount</b>	<b>Date</b>	<b>Source</b>	<b>Report Link</b>
PSEA	Fund for Student Success	\$266,605	8/29/2018	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=685335&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=685335&amp;rptForm=LM2Form</a>
PSEA	Fund for Student Success	\$233,395	9/19/2018	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=711939&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=711939&amp;rptForm=LM2Form</a>
PSEA	Fund for Student Success	\$500,000	8/2/2019	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=711939&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=711939&amp;rptForm=LM2Form</a>
PSEA	Fund for Student Success	\$800,000	6/30/2020	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=737881&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=737881&amp;rptForm=LM2Form</a>
				FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=117828&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=117828&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$925,000	6/30/2021	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=788496&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=788496&amp;rptForm=LM2Form</a>
				FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=125219&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=125219&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$550,000	6/30/2022	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&amp;rptForm=LM2Form</a>
			5/27/2022	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$250,000	9/1/2022	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form</a>
				FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135244&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135244&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$50,000	10/17/2022	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form</a>
				FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=136342&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=136342&amp;formType=e8872</a>
PSEA		\$250,000	6/15/2023	PSEA LM-2	<a href="https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form">https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&amp;rptForm=LM2Form</a>

contributions to union segregated political funds (or PACs), disbursements to political organizations as defined by the IRS in 26 U.S.C. 527, and other political disbursements.”

(Emphasis added).

U.S. Department of Labor, Office of Labor-Management Standards. “Instructions for Form LM-2 Labor Organization Annual Report.”

[https://www.dol.gov/sites/dolgov/files/olms/regs/compliance/GPEA\\_Forms/2020/efile/LM-2\\_instructionsRevised2020.pdf](https://www.dol.gov/sites/dolgov/files/olms/regs/compliance/GPEA_Forms/2020/efile/LM-2_instructionsRevised2020.pdf)

	Fund for Student Success			FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=140503&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=140503&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$100,000	10/16/2023	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872</a>
PSEA	Fund for Student Success	\$400,000	10/24/2023	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872</a>
<b>Total</b>		<b>\$4,325,000</b>			

In turn, the Forms 8872 filed with the IRS by the FSS disclose 10 expenditures totaling \$3.3 million to three different entities — PA Alliance Action, Pennsylvanians for Judicial Fairness, and the Democratic Governors Association — including:

- Five contributions to PA Alliance Action totaling \$1.5 million. According to its IRS Form 990 tax return, PA Alliance Action is a tax-exempt social welfare organization under 26 U.S.C. § 501(c)(4).<sup>33</sup> According to campaign finance records maintained by the Pennsylvania Department of State, PA Alliance Action’s political expenditures from 2020-24 consisted exclusively of large contributions to seven independent expenditure committees:
  - Agenda PAC<sup>34</sup>
  - Casa in Action PAC<sup>35</sup>
  - Conservation Voters of PA Victory Fund<sup>36</sup>
  - Environment America Action Fund<sup>37</sup>
  - Pennsylvania Fund for Change<sup>38</sup>
  - Pennsylvanians for Judicial Fairness<sup>39</sup>
  - Put Pennsylvania First<sup>40</sup>
- Two contributions to Pennsylvanians for Judicial Fairness, an independent expenditure committee,<sup>41</sup> totaling \$325,000.

<sup>33</sup> PA Alliance Action. Internal Revenue Service Form 990, 2021.

[https://apps.irs.gov/pub/epostcard/cor/823537729\\_202112\\_9900\\_2023050821178186.pdf](https://apps.irs.gov/pub/epostcard/cor/823537729_202112_9900_2023050821178186.pdf)

<sup>34</sup> Committee ID no. 20220464. Pennsylvania Department of State. “Committee Information - AGENDA PAC.”

<https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=20774>

<sup>35</sup> Committee ID no. 20180420. Pennsylvania Department of State. “Committee Information - CASA IN ACTION PAC.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=15858>

<sup>36</sup> Committee ID no. 20180324. Pennsylvania Department of State. “Committee Information - CONSERVATION VOTERS OF PA VICTORY FUND.”

<https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=15762>

<sup>37</sup> Committee ID no. 20200249. Pennsylvania Department of State. “Committee Information - ENVIRONMENT AMERICA ACTION FUND.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=19710>

<sup>38</sup> Committee ID no. 20180167. Pennsylvania Department of State. “Committee Information - PENNSYLVANIA FUND FOR CHANGE.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=14606>

<sup>39</sup> Committee ID no. 20230157. Pennsylvania Department of State. “Committee Information - PENNSYLVANIANS FOR JUDICIAL FAIRNESS.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=21120>

<sup>40</sup> Committee ID no. 20220272. Pennsylvania Department of State. “Committee Information - PUT PENNSYLVANIA FIRST.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=20582>

<sup>41</sup> Committee ID no. 20230157. Pennsylvania Department of State. “Committee Information - PENNSYLVANIANS FOR JUDICIAL FAIRNESS.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=21120>

- Two contributions to the Democratic Governors Association (DGA) in May 2022 totaling \$1,475,000. Unlike the other recipients of contributions from the FSS, the DGA is *not* an independent expenditure committee and does, in fact, make contributions directly to candidate campaigns.

<b>Fund for Student Success Expenditures - IRS 8872 Filings</b>					
<b>Contributor</b>	<b>Recipient</b>	<b>Amount</b>	<b>Date</b>	<b>Source</b>	<b>Report Link</b>
Fund for Student Success	PA Alliance Action	\$250,000	5/29/2020	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=117828&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=117828&amp;formType=e8872</a>
Fund for Student Success	PA Alliance Action	\$750,000	9/9/2020	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=119996&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=119996&amp;formType=e8872</a>
Fund for Student Success	PA Alliance Action	\$200,000	10/14/2020	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=120316&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=120316&amp;formType=e8872</a>
Fund for Student Success	Democratic Governors Association	\$925,000	5/16/2022	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872</a>
Fund for Student Success	Democratic Governors Association	\$550,000	5/31/2022	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&amp;formType=e8872</a>
Fund for Student Success	PA Alliance Action	\$250,000	9/6/2022	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135244&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135244&amp;formType=e8872</a>
Fund for Student Success	PA Alliance Action	\$50,000	10/18/2022	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=136342&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=136342&amp;formType=e8872</a>
Fund for Student Success	Pennsylvanians for Judicial Fairness	\$250,000	7/5/2023	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872</a>
Fund for Student Success	Pennsylvanians for Judicial Fairness	\$75,000	10/16/2023	FSS IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=143167&amp;formType=e8872</a>
<b>Total</b>		<b>\$3,300,000</b>			

#### 4. The Democratic Governors Association

The DGA describes itself as “the only [political] organization dedicated to electing Democratic governors and candidates...”<sup>42</sup> The DGA is registered both with the IRS as a “political organization” under 26 U.S.C. § 527<sup>43</sup> and with the Pennsylvania Department of State as a

<sup>42</sup> Democratic Governors Association. “About Us.” <https://democraticgovernors.org/about/>  
 Additionally, the DGA’s IRS Form 8871 indicates that its purpose is to, “Promote Democratic policies and support the election of Democratic Governors and other non-federal candidates. DGA is a single entity that registers and files reports as a state political action committee under applicable state law.” Democrat Governors Association. Internal Revenue Service Form 8871, January 30, 2024.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=124139&formType=e8871>

<sup>43</sup> Democrat Governors Association. Internal Revenue Service Form 8871, January 30, 2024.  
<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=124139&formType=e8871>

“political action committee” pursuant to 25 P.S. § 3241.<sup>44</sup>

While the DGA generally files reports of its contributions and expenditures with both authorities, it disclosed the two contributions it received from the FSS in May 2022 *only* on the Forms 8872 it filed with the IRS; the applicable campaign finance report the DGA filed with the Pennsylvania Department of State<sup>45</sup> — which disclosed hundreds of contributions totaling nearly \$1.4 million — omitted receipt of these two particular contributions.<sup>46</sup>

<b>Contributions Received by the DGA from The FSS - IRS 8872 Filings</b>					
<b>Contributor</b>	<b>Recipient</b>	<b>Amount</b>	<b>Date</b>	<b>Source</b>	<b>Report Link</b>
Fund for Student Success	Democratic Governors Association	\$925,000	5/17/2022	DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872</a>
Fund for Student Success	Democratic Governors Association	\$550,000	5/31/2022	DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872</a>
<b>Total</b>		<b>\$1,475,000</b>			

Receipt of the nearly \$1.5 million from the FSS prompted an almost immediate flow of contributions from the DGA to Shapiro for Pennsylvania.<sup>47</sup> Prior to May 2022, the DGA had made only a single, in-kind contribution of just \$47,500 to Shapiro for Pennsylvania on March 30, 2022. That changed, however, after the FSS started writing checks to the DGA.

The DGA received the first cash contribution — \$925,000 — from the FSS on May 17, 2022, the day of Shapiro’s victory in the uncontested Democratic primary election. It received another \$550,000 from the FSS on May 31, 2022. The next day, the DGA contributed \$500,000 to Shapiro for Pennsylvania, the first of four major contributions that would total \$5.6 million.

<sup>44</sup> Committee ID no. 2002268. Pennsylvania Department of State. “Committee Information - DEM GOVERNORS' ASSOC – PA.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=1541>

<sup>45</sup> The DGA’s “30 day post-primary” campaign finance report covering the reporting period from May 3, 2022, through June 6, 2022, is available from the Pennsylvania Department of State here: <https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=373264&isStatement=0&is24Hour=0>

<sup>46</sup> A separate complaint has been filed with the Pennsylvania Department of State alleging the DGA violated 25 P.S. § 3246 and related campaign finance statutes by failing to disclose the two contributions it received from the Fund for Student Success on this report. It’s worth noting that, because of the failure of the FSS to register as a political committee and report its contributions and expenditures, Pennsylvania campaign finance records do not reflect the PSEA’s millions of dollars in contributions to the FSS using members’ dues. Further, the FSS’ failure to register as a political committee and the failure of the DGA to disclose receipt of the two contributions it received from the FSS in May 2022 together mean that *there is no record of the nearly \$1.5 million the FSS contributed to the DGA anywhere in the Department of State’s publicly available campaign finance records*. Thus, to determine the full extent of PSEA’s involvement in Pennsylvania elections, PSEA members or other interested Pennsylvanians would have to consult two separate sets of *federal* records: (1) PSEA’s Form LM-2 filings with the DOL or the FSS’ Form 8872 filings with the IRS, *and* (2) the DGA’s Form 8872 filings with the IRS.

<sup>47</sup> Committee ID no. 20160016. Pennsylvania Department of State. “Committee Information - SHAPIRO, JOSH FOR PENNSYLVANIA.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=11696>

<b>DGA Contributions to Shapiro for Pennsylvania</b>						
<b>Contributor</b>	<b>Recipient</b>	<b>Amount</b>	<b>Type</b>	<b>Date</b>	<b>Source</b>	<b>Link</b>
Democratic Governors Association	Shapiro for Pennsylvania	\$47,500	In-kind	3/30/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=368922&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=368922&amp;isStatement=0&amp;is24Hour=0</a>
					DGA CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=368605&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=368605&amp;isStatement=0&amp;is24Hour=0</a>
					DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=130793&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=130793&amp;formType=e8872</a>
Democratic Governors Association	Shapiro for Pennsylvania	\$500,000	Cash	6/1/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=372436&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=372436&amp;isStatement=0&amp;is24Hour=0</a>
					DGA CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=373264&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=373264&amp;isStatement=0&amp;is24Hour=0</a>
					DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=133368&amp;formType=e8872</a>
Democratic Governors Association	Shapiro for Pennsylvania	\$2,500,000	Cash	7/13/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>
					DGA CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0</a>
					DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872</a>
Democratic Governors Association	Shapiro for Pennsylvania	\$1,000,000	Cash	8/18/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>
					DGA CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0</a>
					DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872</a>
Democratic Governors Association	Shapiro for Pennsylvania	\$1,600,000	Cash	9/19/2022	Shapiro CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374675&amp;isStatement=0&amp;is24Hour=0</a>
					DGA CFR	<a href="https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0">https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374549&amp;isStatement=0&amp;is24Hour=0</a>

					DGA IRS 8872	<a href="https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872">https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=135853&amp;formType=e8872</a>
<b>Total</b>		<b>\$5,647,500</b>				

## 5. Put Pennsylvania First

Despite the fact that the IRS Forms 8872 filed by both the FSS and the DGA record two contributions totaling \$1,475,000 by the FSS to the DGA in May 2022, the 2021 IRS Form 990 tax return filed by the FSS reports that the only expenditures made by the FSS between September 1, 2021, and August 31, 2022, were “grants” to “Put Pennsylvania First” (PPF) in the amount of \$1,475,000.<sup>48</sup>

PPF was a short-lived political fund which operated only from April through December 2022 — the duration of Pennsylvania’s 2022 gubernatorial general election campaign. PPF was registered with the IRS as a “political organization” under 26 U.S.C. § 527<sup>49</sup> and with the Pennsylvania Department of State as an independent expenditure committee.<sup>50</sup> Its self-described purpose was “to make independent expenditures in support of Democratic Candidates for Governor and against Republican candidates for Governor.”<sup>51</sup>

Contrary to the FSS Form 990, the only campaign finance report filed by PPF with the Pennsylvania Department of State disclosing contributions it received attributed none to the FSS or, for that matter, any other PSEA-connected entity.<sup>52</sup>

Given that: (1) the FSS Forms 8872, signed under penalty of perjury, reported contributing \$1,475,000 directly to the DGA; (2) the DGA reported receiving \$1,475,000 from the FSS on its Forms 8872, signed under penalty of perjury; and (3) PPF did not report receiving any contributions from the FSS in its sworn campaign finance reports to the Pennsylvania Department of State, the most likely explanation is that the FSS Form 990 — also completed under penalty of perjury — falsely indicated that the \$1,475,000 went to PPF.<sup>53</sup>

The FSS would have reason for such a deception since, unlike the DGA which contributes directly to candidates, PPF was an independent expenditure committee operating, ostensibly, independent of any candidate’s campaign — a distinction with potentially important legal

<sup>48</sup> Fund for Student Success. Internal Revenue Service Form 990, 2021. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Fund-for-Student-Success-IRS-Form-990-2021.pdf>

<sup>49</sup> Put Pennsylvania First. Internal Revenue Service Form 8871, December 13, 2022.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=118613&formType=e8871>

<sup>50</sup> Committee ID no. 20220272. Pennsylvania Department of State. “Committee Information - PUT PENNSYLVANIA FIRST.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=20582>

<sup>51</sup> Put Pennsylvania First. Internal Revenue Service Form 8871, December 13, 2022.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=118613&formType=e8871>

<sup>52</sup> Put Pennsylvania First. Pennsylvania Department of State. Campaign finance report, June 16, 2022.

<https://www.campaignfinanceonline.pa.gov/Pages/ShowReport.aspx?ReportID=374348&isStatement=0&is24Hour=0>

<sup>53</sup> A separate complaint has been filed with the Internal Revenue Service alleging that PSEA/Fund for Student Success officials failed to file an accurate tax return and committed perjury in violation of 26 U.S.C. §§ 6033, 6065, and 7206.

ramifications, as will be explained further below.

## 6. Josh Shapiro

During his gubernatorial campaign, while consistently advocating for increased taxpayer funding for public schools, Shapiro endorsed a proposal to create state-funded “lifeline scholarships” to allow students in the poorest-performing public schools to instead attend private or alternative schools of their choice.

As of November 5, 2022, Shapiro’s campaign website noted, “Josh favors adding choices for parents and educational opportunity for students and funding lifeline scholarships like those approved in other states and introduced in Pennsylvania.”<sup>54</sup> Shapiro’s support for lifeline scholarships was repeated on the campaign trail and noted in the media.<sup>55</sup>

Following his election in November 2022, the Republican-controlled Senate proposed allocating \$100 million in funding for a new lifeline scholarship program, a proposal they allege Gov. Shapiro agreed to in negotiations over the state budget.<sup>56</sup>

However, on June 22, 2023, PSEA led a coalition of unions in writing a letter to Gov. Shapiro and other state officials decrying the lifeline scholarship proposal as “unacceptable,” “distressing,” “insulting” and “hypocritical,” and concluding that, “It is irresponsible to vote for any tuition voucher program or include a tuition voucher program in any state budget agreement.”<sup>57</sup>

The following day, then-PSEA president Rich Askey released an independent statement (1) further attacking the lifeline scholarship proposal as “irresponsible,” “unacceptable,” and “terrible”; (2) stating that “PSEA is absolutely opposed to” and would not “tolerate” “‘lifeline scholarships’ or any other tuition voucher scheme”; and (3) expressing his “incredible disappointment” with the possibility that “Gov. Shapiro could be the first governor in Pennsylvania history to sign a school voucher bill.”<sup>58</sup>

On July 5, 2023, Gov. Shapiro announced that he would “line-item veto the full \$100 million

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<sup>54</sup> Shapiro for Pennsylvania. “Education.”

<https://web.archive.org/web/20221105124310/https://joshshapiro.org/policy-education/>

<sup>55</sup> Charles Thompson. “Josh Shapiro supports ‘lifeline scholarships’ championed by school-choice proponents.” *The Patriot-News*. September 17, 2022. <https://www.pennlive.com/news/2022/09/josh-shapiro-voices-support-saturday-for-lifeline-scholarships-championed-by-school-choice-proponents.html>

<sup>56</sup> Linda Stein. “Republicans Denounce Shapiro’s ‘Broken Promise’ on Scholarship Program.” *Delaware Valley Journal*. July 7, 2023. <https://delawarevalleyjournal.com/shapiro-and-republican-senate-point-fingers-at-each-other-over-failed-scholarship-proposal/>

Steve Ulrich. “Did Shapiro Make A Budget Deal With Senate Republicans?” *Politics PA*. July 7, 2023. <https://www.politicspa.com/did-shapiro-make-a-budget-deal-with-senate-republicans/123312/>

<sup>57</sup> Pennsylvania State Education Association. “Joint Letter on Tuition Voucher Plans.” June 22, 2023. <https://www.psea.org/issues-action/action-center/voucher-letter/>

<sup>58</sup> Pennsylvania State Education Association. “PSEA president speaks out against push for private school tuition vouchers.” June 23, 2023. <https://www.psea.org/VouchersRelease06232023>

appropriation” for lifeline scholarships in the budget proposal.<sup>59</sup> And on August 3, 2023, Gov. Shapiro signed the budget, but line-item vetoed the funding for lifeline scholarships.<sup>60</sup>

The governor’s decision to change positions on the issue was widely criticized<sup>61</sup> and viewed by many observers as a concession to PSEA.<sup>62</sup>

## 7. The PSEA Officers

Given their roles within the employee organization, the PSEA Officers were likely involved in the approval and/or execution of PSEA’s contribution of nearly \$1.5 million in members’ dues to the DGA, through the unregistered political committee Fund for Student Success, for the purpose of aiding Josh Shapiro’s gubernatorial campaign in 2022:

- a. **Richard Askey:** President of PSEA from 2019-2023; current affiliation unknown.<sup>63</sup> As president at the time of PSEA’s contributions to the FSS, Askey had the “power and duty” under Article V(A)(7) of PSEA’s constitution and bylaws to “sign jointly with the

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<sup>59</sup> Gov. Josh Shapiro. “Statement from Governor Shapiro on Budget Negotiations.” Office of the Governor. July 5, 2023. <https://www.governor.pa.gov/newsroom/statement-from-governor-shapiro-on-budget-negotiations/>

<sup>60</sup> Gov. Josh Shapiro. 2023 budget line-item veto message to the Pennsylvania House of Representatives. August 3, 2023. <https://www.governor.pa.gov/wp-content/uploads/2023/08/Governor-Shapiro-2023-Budget-Line-Item-Veto-Message.pdf>

<sup>61</sup> Commonwealth Foundation. “What They Are Saying: Brutal Headlines for Shapiro, Strong Support for Scholarships.” July 28, 2023. <https://www.commonwealthfoundation.org/2023/07/28/shapiro-lifeline-scholarships-headlines/>

<sup>62</sup> Charles Mitchell. “Josh Shapiro Chooses Teachers Unions Over Students.” *Wall Street Journal*. July 7, 2023. <https://www.wsj.com/articles/josh-shapiro-chooses-teachers-unions-over-students-pennsylvania-lifeline-veto-79a6f93d>

Ginny Gentles. “PA Governor Caves to Teachers Unions With Plans to Veto School Choice.” Independent Women’s Forum. July 11, 2023. <https://www.iwf.org/2023/07/11/pa-governor-caves-to-teachers-unions-with-plans-to-veto-school-choice/>

Ben Wilson. “Pennsylvania Governor Drops School Choice Agenda Under Pressure From Teachers’ Unions.” *Washington Free Beacon*. July 6, 2023. <https://freebeacon.com/latest-news/pennsylvania-governor-drops-school-choice-agenda-under-pressure-from-teachers-unions/>

Michael Whittaker. “Pennsylvania Governor Caves To Teachers Union On School Choice.” *Daily Wire*. July 5, 2023. <https://www.dailywire.com/news/pennsylvania-governor-caves-to-teachers-union-on-school-choice>

Jonathan Tobin. “Pennsylvania’s School Choice Sellout Shows Teachers Unions Still Own The Democrats.” *The Federalist*. July 12, 2023. <https://thefederalist.com/2023/07/12/pennsylvanias-school-choice-sellout-shows-teachers-unions-still-own-the-democrats/>

Rabbi A. D. Motzen. “Governor Shapiro – Complete the Task!” *RealClearPolicy*. September 14, 2023. [https://www.realclearpolicy.com/articles/2023/09/14/governor\\_shapiro\\_\\_complete\\_the\\_task\\_979624.html](https://www.realclearpolicy.com/articles/2023/09/14/governor_shapiro__complete_the_task_979624.html)

*National Review*. “Josh Shapiro’s Shameful Betrayal on School Choice.” July 7, 2023. <https://www.nationalreview.com/2023/07/josh-shapiros-shameful-betrayal-on-school-choice/>

<sup>63</sup> PSEA’s 2019 LM-2 was the first to identify Askey as the union’s president, and subsequent reports confirm he retained that position through August of 2023.

PSEA’s 2019 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=711939&rptForm=LM2Form>

PSEA’s 2020 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=737881&rptForm=LM2Form>

PSEA’s 2021 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=788496&rptForm=LM2Form>

PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>

PSEA’s 2023 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>



executive director for disbursements from the general fund.”<sup>64</sup>

- b. Aaron Chapin:** Vice president of PSEA in 2022;<sup>65</sup> assumed role of president in September 2023.<sup>66</sup> As vice president in 2022, Chapin was empowered by Article V(B) of PSEA’s constitution and bylaws to assume the powers and duties of the president in his absence as well as to exercise any authority delegated to him by the president.<sup>67</sup>
- c. Jeffrey Ney:** Treasurer of PSEA in 2022;<sup>68</sup> assumed role of vice president in September 2023.<sup>69</sup> As treasurer in 2022, Ney was required by Article V(C) of the PSEA constitution and bylaws to “receive all monies of the Association and to pay out the same upon order of the board of directors” and to “report to the board of directors at its monthly meetings all Association receipts and disbursements.”<sup>70</sup>
- d. James Vaughn:** Executive director of PSEA since 2015.<sup>71</sup> Pursuant to Article VI of the PSEA constitution and bylaws, it was Vaughn’s duty to “prepare vouchers signed by the president” and to “carry out those administrative functions which are assigned by the board of directors or which are customarily performed by the chief administrator of an association.”<sup>72</sup> Vaughn’s biography on PSEA’s website notes that he has long “been involved in all aspects of the organization’s policy and operational decision-making,” had experience managing “the association’s lobbying, advocacy, and political operations,” and had “led PSEA’s successful lobbying and campaign initiatives... to elect pro-public education candidates for the General Assembly, judiciary, statewide row offices, and the governor’s office.”<sup>73</sup>
- e. Joseph Howlett:** Assistant executive director of PSEA since 2022.<sup>74</sup> Howlett was the “authorized official” who signed the FSS IRS Form 8872 disclosing receipt of the \$550,000 contribution from the PSEA and the FSS’ two contributions to the DGA in May of 2022.<sup>75</sup> He was also listed as the “treasurer” of the FSS on its Form 990 tax return for

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<sup>64</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

<sup>65</sup> PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>

<sup>66</sup> Pennsylvania State Education Association. “PSEA President Aaron Chapin.” <https://www.psea.org/about-psea/leadership/psea-officers/psea-president2/>

<sup>67</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

<sup>68</sup> PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>

<sup>69</sup> Pennsylvania State Education Association. “PSEA Vice President Jeff Ney.” <https://www.psea.org/about-psea/leadership/psea-officers/psea-vice-president/>

<sup>70</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

<sup>71</sup> Pennsylvania State Education Association. “PSEA Executive Director Jim Vaughan.” <https://www.psea.org/about-psea/leadership/psea-officers/psea-executive-director-jim-vaughan/>

<sup>72</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

<sup>73</sup> Pennsylvania State Education Association. “PSEA Executive Director Jim Vaughan.” <https://www.psea.org/about-psea/leadership/psea-officers/psea-executive-director-jim-vaughan/>

<sup>74</sup> PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>

PSEA’s 2023 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

<sup>75</sup> Fund for Student Success. Internal Revenue Service Form 8872, July 14, 2022.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=132981&formType=e8872>

2021-22.<sup>76</sup>

- f. **Lahrson Harper:** PSEA’s assistant director of administrative services since at least 2021.<sup>77</sup> Harper was the “authorized official” who signed the FSS IRS Form 8872 disclosing receipt of the \$925,000 contribution from PSEA in June of 2021.<sup>78</sup>
- g. **David Taylor:** A member of PSEA’s board of directors during the period in which the FSS made the two contributions to the DGA in May 2022, a position he retained through at least August 31, 2023, the end of the reporting period covered by PSEA’s most recent Form LM-2.<sup>79</sup> Taylor was also the chair of the FSS board — serving alongside Howlett as the Fund’s only two officers — during the period in which it made the two contributions to the DGA in May 2022.<sup>80</sup>

## **II. Allegations and Arguments**

### **1. PSEA’s contributions to the DGA violated 43 P.S. § 1101.1701 and, consequently, should have been reported to the PLRB.**

PSEA violated the PERA by, in May 2022, using its general treasury funds to make two contributions totaling \$1,475,000 in members’ dues, through the Fund for Student Success, to the Democratic Governors Association.

43 P.S. § 1101.1701 provides:

“No employe [sic] organization shall make any contribution out of the funds of the employe [sic] organization either directly or indirectly to any political party or organization or in support of any political candidate for public office.

The board shall establish such rules and regulations as it may find necessary to prevent the circumvention or evasion of the provisions of this section.

If an employe [sic] organization has made contributions in violation of this section it shall file with the board a report or affidavit evidencing such contributions within ninety days of the end of its fiscal year. Such report or affidavit shall be signed by its president and treasurer or corresponding principals.”

*See also Trometter v. Pennsylvania Labor Relations Bd.*, 147 A.3d 601, 607 (Pa.Cmwlt. 2016) (“In enacting Section 1701 of PERA, the General Assembly appears to have had four primary

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<sup>76</sup> Fund for Student Success. Internal Revenue Service Form 990, 2021. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Fund-for-Student-Success-IRS-Form-990-2021.pdf>

<sup>77</sup> PSEA’s 2021 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=788496&rptForm=LM2Form>  
PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>

PSEA’s 2023 LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

<sup>78</sup> Fund for Student Success. Internal Revenue Service Form 8872, July 26, 2021.

<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=125219&formType=e8872>

<sup>79</sup> PSEA’s 2022 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=849155&rptForm=LM2Form>  
PSEA’s 2023 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

<sup>80</sup> Fund for Student Success. Internal Revenue Service Form 990, 2021. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Fund-for-Student-Success-IRS-Form-990-2021.pdf>

objectives: (1) to prohibit certain payments from employee organizations to political parties or to candidates in a political election contest (Para. 1); (2) to require employee organizations that violate the prohibition contained in Section 1701[1] of PERA to file with the Board reports of or affidavits detailing the violations; (3) to require the Board to promulgate rules or regulations “as it may find necessary to prevent the circumvention or evasion of” both the contribution prohibition and reporting requirement; and (4) to provide civil fines against violating employee organizations and criminal consequences on individuals who ‘willfully violate[ ]’ Section 1701.’”).

Further, pursuant to this statutory authority, the PLRB adopted 34 P.C. § 95.111, which provides:

“An employe [sic] organization which has made contributions out of funds of the employe [sic] organization either directly or indirectly to a political party or organization or in support of a political candidate for public office shall file a report with the Board which shall contain the following:

- (1) A statement describing the dates, places of occurrence, amounts and beneficiaries of the contributions.
- (2) The signatures of the president and treasurer or corresponding principals of the employe [sic] organization.”

As PSEA’s fiscal year runs from September 1 through August 31,<sup>81</sup> it should have filed the report or affidavit with the PLRB disclosing its two contributions to the DGA no later than November 30, 2022.

However, PLRB staff report receiving no reports or affidavits from any employee organizations disclosing prohibited contributions pursuant to 43 P.S. § 1101.1701 and 34 P.C. § 95.111 after January 1, 2019.<sup>82</sup>

**a. PSEA is an “employee organization.”**

PSEA’s membership consists predominantly of “persons actively engaged in the profession of teaching or in other educational work” in Pennsylvania public schools,<sup>83</sup> and the PLRB has repeatedly determined that “[t]he PSEA is an employe [sic] organization under PERA.” *Mary Trometter v. Pennsylvania State Education Association and National Education Association*, 50 PPER ¶ 22; *see also Pennsylvania State Education Association v. Commonwealth of Pennsylvania*, 43 PPER ¶ 95 (“PSEA is an employe [sic] organization under section 301(3) of

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<sup>81</sup> Both PSEA’s Forms LM-2 filed with the U.S. Dept. of Labor and its Forms 990 filed with the Internal Revenue Service indicate reporting periods running from September 1 through August 31.

PSEA’s 2023 Form LM-2: <https://olmsapps.dol.gov/query/orgReport.do?rptId=875205&rptForm=LM2Form>

PSEA’s 2021 Form 990: [https://apps.irs.gov/pub/epostcard/cor/230961125\\_202208\\_990O\\_2023060521366278.pdf](https://apps.irs.gov/pub/epostcard/cor/230961125_202208_990O_2023060521366278.pdf)

<sup>82</sup> Nathan Bortner, secretary, Pennsylvania Labor Relations Board. Email to Maxford Nelsen regarding Right to Know Law Request No. 24-0087. April 17, 2024. [https://www.freedomfoundation.com/wp-content/uploads/2024/04/RTKL\\_24-0087\\_RTKLRequest.pdf](https://www.freedomfoundation.com/wp-content/uploads/2024/04/RTKL_24-0087_RTKLRequest.pdf)

<sup>83</sup> Pennsylvania State Education Association. “Constitution and Bylaws as amended May 2018.” Art. III, paragraph 2. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Constitution-and-Bylaws-as-amended-May-2018.pdf>

the PERA.”); and *Jane Ladley and Christopher Meier, Appellants v. Pennsylvania State Education Association*, 53 PPER ¶ 41.

**b. PSEA’s transfers of funds to the Democratic Governors Association, through the Fund for Student Success, were “contributions.”**

Because the term “contribution” is not defined in the PERA, the PLRB has previously turned to Commonwealth campaign finance laws for a workable definition, choosing to read the definition of the term found in 25 P.S. § 3241(b) *in pari materia* with 43 P.S. § 1101.1701. See *Mary Trometter v. Pennsylvania State Education Association and National Education Association*, 50 PPER ¶ 22.<sup>84</sup>

The definition reads, in relevant part:

“The word ‘contribution’ shall mean any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate or political committee made for the purpose of influencing any election in this Commonwealth or for paying debts incurred by or for a candidate or committee before or after any election. ‘Contribution’ shall also include... any payments provided for the benefit of any candidate, including any payments for the services of any person serving as an agent of a candidate or committee by a person other than the candidate or committee or a person whose expenditures the candidate or committee must report under this act.”

While this definition provides a workable framework for establishing the kinds of *transactions* that should be deemed “contributions” for the purposes of 43 P.S. § 1101.1701, it should not be used to determine the exclusive *ends* to which those contributions may not permissibly be directed under that statute.

Specifically, whereas “contributions” in the context of the Election Code are, by definition, only made “to a candidate or political committee... for the purpose of influencing any election in this Commonwealth,” the “contributions” prohibited under 43 P.S. § 1101.1701 encompass not just those made to candidates, but to “any political party or organization.” (Emphasis added).

Since, under the rules of statutory construction, “[e]very statute shall be construed, if possible, to give effect to all its provisions,” 1 Pa.C.S.A. § 1921(a), and in such a way that “the entire statute... be effective and certain,” 1 Pa.C.S.A. § 1922(2), any interpretation of “contribution” in the context of 43 P.S. § 1101.1701 that does not encompass all “political parties and

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<sup>84</sup> It is far from clear that these two statutes are, in fact, *in pari materia*. “Statutes or parts of statutes are *in pari materia* when they relate to the same persons or things or to the same class of persons or things.” 1 Pa.C.S.A. § 1932(a). See also *Cozzone ex rel. Cozzone v. W.C.A.B. (Pa Mun./E. Goshen Twp.)*, 621 Pa. 23, 39, 73 A.3d 526, 536 (2013). In this case, the PERA governs collective bargaining and labor relations between public employers and public employees, as defined by 43 P.S. § 1101.301, while the Pennsylvania Elections Code governs the election of candidates, as defined by 25 P.S. § 3241, to public office. Though an entity like PSEA may find itself under the jurisdiction of both statutes in differing contexts, that does not necessarily mean that the two statutes relate to the same “class of persons,” as the vast majority of persons governed by the Elections Code never fall under the jurisdiction of the PERA.

organizations” is incomplete and, therefore, inappropriate. (Emphasis added). *See also Trometter v. Pennsylvania Labor Relations Bd.*, 147 A.3d 601, 607 (Pa.Cmwlth. 2016) (“Whenever possible, courts engaging in statutory construction must seek to give meaning to all of the provisions of a statute.”).

Further, when two statutes are treated *in pari materia*, as the PLRB has previously viewed 43 P.S. § 1101.1701 and 25 P.S. § 3241(b), “They are not to be construed as if one part operates to nullify, exclude or cancel the other, unless the statute expressly says so.” *Cozzone ex rel. Cozzone v. W.C.A.B. (Pa Mun./E. Goshen Twp.)*, 621 Pa. 23, 39, 73 A.3d 526, 536 (2013).

That PSEA’s transfer of \$1,475,000 to the DGA, via the FSS — an “account” owned, operated, and funded by the PSEA — constituted a “payment” and “deposit of money” is beyond dispute. Consequently, if the DGA is a “political party or organization,” then the two transactions constituted prohibited “contributions” pursuant to 43 P.S. § 1101.1701.

*c. The Democratic Governors Association is both a “political organization” and a “political party.”*

While the terms “political organization” and “political party” are not specifically defined in either the PERA or the Election Code, any definition that did not encompass the officially, explicitly partisan *Democratic Governors Association* — which is also registered with the Pennsylvania Department of State as a “political committee” as defined by 25 P.S. § 3241<sup>85</sup> and with the IRS as a “political organization” as defined by 26 U.S.C. § 527<sup>86</sup> — would be nonsensical and of no practical use.

Reference to the applicable principles of statutory construction confirms the DGA’s status as a “political organization” and “political party” for the purposes of 43 P.S. § 1101.1701.

“The Statutory Construction Act provides that when words in a statute are not defined, they shall be construed according to their common and approved usage. 1 Pa. C.S. § 1903.” *Cogan House Twp. v. Lenhart*, 197 A.3d 1264, 1268 (Pa.Cmwlth. 2018). When interpreting a word or phrase in a statute, courts “‘must first look for the meaning of a statute’s word or term in that statute’s definitions, then in the Statutory Construction Act [of 1972 (Statutory Construction Act)], a law dictionary and, finally, a standard dictionary, in that order.’” *Sklar v. Dep’t of Health*, 798 A.2d 268, 276 (Pa. Cmwlth. 2002).” *Id.*

In this case, “political organization” and “political party” are not defined in the PERA, nor in the Statutory Construction Act. *See* 1 Pa.C.S.A. § 1991. Turning next to a law dictionary, *Black’s Law Dictionary* (4<sup>th</sup> rev. ed. 1968) — the current edition as of the legislature’s passage of 43 P.S. § 1101.1701 in 1970 — no definition of “political organization” or “organization” is provided, though it does define “political” as,

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<sup>85</sup> Committee ID no. 2002268. Pennsylvania Department of State. “Committee Information - DEM GOVERNORS’ ASSOC – PA.” <https://www.pavoterservices.pa.gov/ElectionInfo/CommitteeInfo.aspx?ID=1541>

<sup>86</sup> Democratic Governors Association. Internal Revenue Service Form 8871, January 30, 2024. “<https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=124139&formType=e8871>

“Pertaining or relating to the policy or the administration of government, state or national. *People v. Morgan*, 90 Ill. 558. Pertaining to, or incidental to, the exercise of the functions vested in those charged with the conduct of government; relating to the management of affairs of state; as political theories; of or pertaining to exercise of rights and privileges or the influence by which individuals of a state seek to determine or control its public policy; having to do with organization or action of individuals, parties, or interests that seek to control appointment or action of those who manage affairs of a state. *State ex rel. Maley v. Civic Action Committee*, 238 Iowa 851, 28 N.W.2d 467, 470.”

Turning to *Webster's Seventh New Collegiate Dictionary* (1963) provides the following additional, contemporaneous definitions:

- **Organization:** “Association, society. An administrative and functional structure, also the personnel of such a structure.”
- **Political:** “Of or relating to government. Of, relating to, or concerned with the making as distinguished from the administration of governmental policy. Of, relating to, or involving politics and esp. party politics. Organized in governmental terms.”
- **Party:** “A group of persons organized for the purpose of directing the policies of a government.”<sup>87</sup>

A “political organization,” then, could fairly be defined as an association with an administrative and functional structure that pertains to the policy or administration of government and the exercise of rights by which individuals seek to determine or control public policy and the appointment of those who manage government affairs.

As the self-described “only organization dedicated to electing Democratic governors and candidates” that “also helps [Democrat] governors lead their states” by “[serving] as a clearinghouse of best practices to help governors and their staff share their policy successes and learn from each other,” the DGA certainly fits the bill.<sup>88</sup>

As to the DGA’s status as a “political party,” *Blacks* defines the term as:

“A number of persons united in opinion and organized in the manner usual to the then existing political parties. *Swindall v. State Election Board*, 168 Okl. 97, 32 P.2d 691, 695. An unincorporated, voluntary association of persons sponsoring certain ideas of government or maintaining certain political principles or beliefs in public policies of government, not a governmental agency or instrumentality. *Robinson v. Holman*, 181 Ark. 428, 26 S.W.2d 66, 68, 70 A.L.R. 1480.”

As one of the only major political parties in the United States and in Pennsylvania, the Democratic Party and its component the DGA indisputably constitute “a number of persons

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<sup>87</sup> Available online at:

<https://ia902707.us.archive.org/15/items/webstersseventhn00unse/webstersseventhn00unse.pdf>

<sup>88</sup> Democratic Governors Association. “About Us.” <https://democraticgovernors.org/about/>

united in opinion and organized in the manner usual to the then existing political parties.”<sup>89</sup>

While not a part of the statutory construction process, reference to uses of the terms “political organization” and “political party” in Commonwealth legal authorities unrelated to 43 P.S. § 1101.1701 provides additional confirmation that the common, accepted uses of the terms necessarily include the DGA.

For instance, the Pennsylvania Code of Judicial Conduct defines “political organization” as,

“A political party or group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office, excluding a judicial candidate’s campaign committee created as authorized by this Code.”<sup>90</sup>

That the DGA satisfies this definition is self-evident.

Further, 25 P.S. § 2831(a) provides that,

“Any party or political body, one of whose candidates at the general election next preceding the primary polled in each of at least ten counties of the State not less than two per centum of the largest entire vote cast in each of said counties for any elected candidate, and polled a total vote in the State equal to at least two per centum of the largest entire vote cast in the State for any elected candidate, is hereby declared to be a political party within the State...”

The Democratic Party satisfies these requirements, as evidenced by the ability of Pennsylvania residents to register to vote as Democrats,<sup>91</sup> and the DGA’s status as a component of the Democratic Party is explicit and unassailable.

In short, no matter which standard is applied, the DGA constitutes a “political organization” and/or “political party” for the purposes of 43 P.S. § 1101.1701 and, consequently, PSEA’s two contributions of \$1,475,000 to the DGA in May of 2022, using general treasury funds routed through its Fund for Student Success, were in clear violation of the PERA.

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<sup>89</sup> For instance, the DGA is the mirror image of the *Republican* Governors Association, its counterpart in the country’s only other major political party. Like the DGA, the RGA is registered with the IRS as a “political organization” pursuant to 26 U.S.C. § 527. *See* the Republican Governors Association, IRS Form 8871, March 6, 2024. <https://forms.irs.gov/app/pod/basicSearch/downloadFile?formId=124766&formType=e8871>. It describes its mission in terms effectively identical to the DGA, except in service of GOP governors: “The Republican Governors Association helps elect Republicans to governorships throughout the nation and provides them with the resources to help them govern effectively.” Republican Governors Association “About.” <https://www.rga.org/about/>

<sup>90</sup> Judicial Conduct Board of Pennsylvania. “Code of Judicial Conduct: Effective July 1, 2014.” <https://judicialconductboardofpa.org/code-of-judicial-conduct/>

<sup>91</sup> The current “Pennsylvania Voter Registration Application & Mail-in Ballot Request” form available from the Pennsylvania Department of State permits voters to register as members of the Democratic, Republican, Green or Libertarian parties. *See*

[https://www.vote.pa.gov/Resources/Documents/Voter\\_Registration\\_Application\\_English.pdf](https://www.vote.pa.gov/Resources/Documents/Voter_Registration_Application_English.pdf)

*d. Additionally and/or alternatively, PSEA’s contributions to Shapiro for Pennsylvania, and its failure to disclose them, violated 43 P.S. § 1101.1701.*

Any contribution to the DGA by PSEA using members’ dues is sufficient to establish violations of 43 P.S. § 1101.1701 on the basis that the contributions went to a “political party” or “political organization.” However, if the DGA served merely as a pass-through for PSEA funds ultimately intended for Shapiro for Pennsylvania, then the PSEA violated 43 P.S. § 1101.1701 by virtue of using its general treasury funds to contribute “in support of any political candidate for public office.”

There is strong circumstantial — and potentially documentary — evidence indicating this is exactly what happened.

First, as noted above, the DGA made its first expenditure to Shapiro for Pennsylvania, in the amount of \$500,000, just one day after receiving a \$550,000 contribution from the PSEA/FSS.

Second, as a Pennsylvania-specific corporation and labor union, there’s no indication that the PSEA/FSS had any interest in gubernatorial elections occurring in other states in 2022. It made no gubernatorial endorsements outside the Commonwealth and there’s no evidence that PSEA-PACE or the FSS contributed to gubernatorial campaigns beyond Pennsylvania. Contributing nearly \$1.5 million to the DGA for use in gubernatorial elections in which the PSEA/FSS had no interest would be spectacularly generous. On the other hand, PSEA’s strong support for Josh Shapiro in the union’s home-state gubernatorial election that year is extremely well-documented. It beggars belief that the PSEA/FSS would covertly contribute such a sum to the DGA absent an understanding that the funds would be put to use backing the union’s favored candidate in the upcoming Pennsylvania gubernatorial election.

Third, there is reason to believe a paper trail exists regarding the two PSEA/FSS contributions to the DGA in May 2022. Schedule I, Part IV of the FSS Form 990 for 2021 outlines the FSS’ purported “procedures for monitoring the use of grant funds,” explaining:

“The Fund for Student Success (FSS) provides grants and other forms of assistance to various non-profit organizations and section 527 organizations. Potential organizations submit requests for funding to PSEA’s government relations division. The requests are then submitted to the FSS board and a determination is made regarding the grant amount. Each grant is paid via check or electronic funds transfer and is accompanied by a communication from PSEA indicating the purpose of the grant and the use of the funds. The grantee is responsible for maintaining adequate records of the grant expenditures and activities and must allow PSEA access to such records for verification purposes, if deemed necessary.”<sup>92</sup>

If this process — outlined under penalty of perjury — was followed in this case, then either: (1) Shapiro for Pennsylvania approached the PSEA/FSS with a funding proposal which the FSS granted but routed through the DGA; or (2) the DGA approached the PSEA/FSS with a funding

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<sup>92</sup> Fund for Student Success. Internal Revenue Service Form 990, 2021. <https://www.freedomfoundation.com/wp-content/uploads/2024/04/PSEA-Fund-for-Student-Success-IRS-Form-990-2021.pdf>



proposal that, presumably, involved assurance that the funds would be contributed to or used for the purpose of supporting the Shapiro campaign, whether directly or indirectly.

In either event, there is a strong case to be made that the transactions constituted illegal “contributions” by the PSEA/FSS, through the DGA, to Shapiro for Pennsylvania in violation of 43 P.S. § 1101.1701.

Determining authoritatively whether the parties involved — PSEA, the DGA, and the Shapiro campaign — understood the PSEA’s contributions to be in support of Shapiro for Pennsylvania may require additional investigation by the PLRB and/or an administrative hearing to “call and examine witnesses,” “direct the production of papers,” and “introduce documentary or other evidence” so that the PLRB may “obtain a complete record of facts necessary for a fair determination of the issues...” 34 P.C. § 95.91; *see also Trometter v. Pennsylvania Labor Relations Bd.*, 147 A.3d 601, 609 (Pa.Cmwlt. 2016) (“...it is evident from PERA, and specifically Section 1701, that the General Assembly intended to confer on the Board ‘an ability to secure compliance with the statutory requirements.’ *Commonwealth v. Beam*, 567 Pa. 492, 788 A.2d 357, 361 (2002). If not express, it is implicit. *Id.*”).

#### e. Penalties

43 P.S. § 1101.1701 provides that,

“Any employe [sic] organization which violates the provisions of this section or fails to file any required report or affidavit or files a false report or affidavit shall be subject to a fine of not more than two thousand dollars (\$2,000).”

As the contributions by PSEA to the DGA and/or Shapiro for Pennsylvania occurred more than two years ago, they may be beyond the limitations period for an action seeking a civil penalty. *See* 42 Pa.C.S.A. § 5524(5).<sup>93</sup>

Regardless of whether PSEA may now face enforcement action for the making of the two illegal contributions in May of 2022, its failure to file the required reports or affidavits *disclosing* the two prohibited contributions to the DGA and/or Shapiro for Pennsylvania by November 30, 2022 can and should be treated as two separate violations, justifying a total fine of not more than \$4,000.

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<sup>93</sup> On the other hand, PSEA’s failure to disclose the contributions to the PLRB as required, its efforts to conceal the contributions further by routing them through an unregistered political committee, and its repeated public assurances that it does not use general treasury funds to make political contributions may together constitute fraudulent concealment such that the statute of limitations has been tolled. *See Fine v. Checcio*, 582 Pa. 253, 266, 870 A.2d 858, 860-861 (2005) (“[T]he doctrine of fraudulent concealment serves to toll the running of the statute of limitations. The doctrine is based on a theory of estoppel, and provides that the defendant may not invoke the statute of limitations, if through fraud or concealment, he causes the plaintiff to relax his vigilance or deviate from his right of inquiry into the facts. The doctrine does not require fraud in the strictest sense encompassing an intent to deceive, but rather, fraud in the broadest sense, which includes an unintentional deception. The plaintiff has the burden of proving fraudulent concealment by clear, precise, and convincing evidence... [A] statute of limitations that is tolled by virtue of fraudulent concealment begins to run when the injured party knows or reasonably should know of his injury and its cause.” (Internal citations omitted)).

Further, the statute also provides that,

“Any person who wilfully [sic] violates this section, or who makes a false statement knowing it to be false, or who knowingly fails to disclose a material fact shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than thirty days or both. Each individual required to sign affidavits or reports under this section shall be personally responsible for filing such report or affidavit and for any statement contained therein he knows to be false.”

43 P.S. § 1101.1701.

Given PSEA’s repeated, public statements that: “PSEA cannot use dues dollars for direct or in-kind contributions to any candidates or political parties”<sup>94</sup>; “No dues dollars can be given to political candidates”<sup>95</sup>; and “no members’ dues are used to fund political candidates”<sup>96</sup>; there is every reason to believe that the PSEA Officers identified above — experienced in financial matters and applicable laws governing employee organizations and campaign finance, and in positions of authority regarding the two contributions at issue — willfully violated 43 P.S. § 1101.1701 when they authorized and/or orchestrated the transfer of \$1,475,000 in members’ dues to the DGA and/or Shapiro for Pennsylvania and failed to file the required reports disclosing the contributions to the PLRB.

This conclusion is further bolstered by the fact that PSEA defended itself — successfully — against a prior complaint alleging certain of its activities undertaken in support of Tom Wolf’s gubernatorial campaign in 2014 violated 43 P.S. § 1101.1701. The crux of PSEA’s defense was that its activities amounted to constitutionally protected internal communications to its members and independent expenditures, not *contributions* of the kind prohibited by 43 P.S. § 1101.1701.

But none other than PSEA’s own in-house counsel acknowledged that,

“...states like Pennsylvania can, and sometimes do, permissibly prohibit unions from using general treasury funds to make contributions to candidates or political parties in connection with elections. See, e.g., 25 P.S. § 3253(a) & 43 P.S. § 1101.1701.”

*Mary Trometter v. Pennsylvania State Education Association and National Education Association*, PLRB Case No. PERA-M-14-366-E, respondents combined post-hearing brief.<sup>97</sup>

This is, of course, precisely what PSEA/FSS did when it contributed \$1,475,000 in members’

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<sup>94</sup> Pennsylvania State Education Association. “Questions & Answers About Organizing.”

<https://www.psea.org/globalassets/regions/westernregion/organizingqa.pdf>

<sup>95</sup> Pennsylvania State Education Association. “Contribute to PSEA-PACE.” <https://www.psea.org/give>

<https://www.psea.org/issues-action/action-center/psea-pace/>

<sup>96</sup> Pennsylvania State Education Association. “Electoral politics: ‘Party affiliation is secondary’” *PSEA Voice*. March 2018. <https://www.psea.org/news--events/Publications/voice-march-2018/electoral-politics-party-affiliation-is-secondary/>

<sup>97</sup> Available online at: <https://www.fairnesscenter.org/wp-content/uploads/2020/08/Trometter-PSEA-NEAs-Post-Hearing-Brief-PLRB-Proceeding.pdf>

dues to the DGA and/or Shapiro for Pennsylvania.<sup>98</sup> And while the PLRB in *Trometter* ultimately found that the PSEA’s political endorsements in communications targeted internally to its members and support for political candidates via independent expenditures were constitutionally protected, it concluded that contributions of general treasury funds to external political entities *would* violate the PERA:

“...the distinction between a contribution to a political candidate, committee or campaign on the one hand and an independent expenditure on the other is not only significant, but also determinative. Contributions can be prohibited and regulated by the government, but independent expenditures to voice support for candidates constitute protected First Amendment speech. With this understanding, the prohibited contribution language in Section 1701 constitutes permissible government regulation, and it is consistent with First Amendment law.”

*Mary Trometter v. Pennsylvania State Education Association and National Education Association*, 50 PPER ¶ 22. (Emphasis added).<sup>99</sup>

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<sup>98</sup> Should further investigation show that the DGA served as an “indirect” conduit for the PSEA/FSS contributions to Shapiro for Pennsylvania, the PSEA previously acknowledged this behavior would violate the law, too:

“Both federal and Pennsylvania law explicitly ban such indirect contributions because they can be used as means for evading contribution limits or requirements for disclosing a contribution's source. See 52 U.S.C. § 30122; 25 P.S. § 3254. There is no allegation or evidence here that the Unions made such an ‘indirect’ contribution by donating funds to Wolf through a straw or intermediary.”

*Mary Trometter v. Pennsylvania State Education Association and National Education Association*, PLRB Case No. PERA-M-14-366-E, respondents combined post-hearing brief. Available online at: <https://www.fairnesscenter.org/wp-content/uploads/2020/08/Trometter-PSEA-NEAs-Post-Hearing-Brief-PLRB-Proceeding.pdf>

<sup>99</sup> As interpreted by the PLRB in *Trometter*, 43 P.S. § 1101.1701 mirrors another statute in the Election Code, 25 P.S. § 3253, which provides that, “It is unlawful for any... corporation... or any unincorporated association... to make a contribution or expenditure in connection with the election of any candidate...” Although this statute has been narrowed by *Citizens United v. Federal Election Com'n*, 558 U.S. 310, and *Gen. Majority Pac v. Aichele*, 1:14-CV-332, 2014 WL 3955079, (M.D. Pa. Aug. 13, 2014), the Pennsylvania Department of State has confirmed that it still prohibits labor unions from contributing to candidates and political parties:

“That part of section 1633(a) of the Election Code that prohibits banks, corporations and unincorporated associations (including labor unions) from making ‘contributions’ remains in full force and effect.”

Pennsylvania Department of State. “Statement Regarding the Effect of the U.S. Supreme Court’s Decision in *Citizens United v. FEC* on Pennsylvania Law.” March 4, 2010. <https://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Documents/Statement%20of%20Citizens%20United%20vs.%20fec/DOS%20Statement%20on%20Citizens%20United%20Case%2003-10.pdf>

“On March 10, 2014, the United States District Court for the Middle District of Pennsylvania entered a permanent injunction order. The order allows a political committee that is properly registered with the Department of State (as required by the Pennsylvania Election Code) to accept contributions from corporations, unincorporated associations and/or labor unions, so long as that registered political committee does not make contributions to, or coordinate expenditures on behalf of, candidates or political committees controlled by political parties... [A] political committee operating under the order cannot make contributions or expend its resources in a manner that would cause its resources (a) to be donated to a

In short, PSEA cannot claim unfamiliarity with the law and, in fact, specifically acknowledged the type of contributions it made in this case are not permitted by the PERA.

Accordingly, in addition to levying appropriate civil penalties on PSEA, the PLRB should refer the alleged willful violations of 43 P.S. § 1101.1701 by the PSEA Officers to the Attorney General for prosecution. *See Trometter v. Pennsylvania Labor Relations Bd.*, 147 A.3d 601, 609 (Pa.Cmwlth. 2016) (“...[I]t is reasonable and appropriate, and consistent with both Section 1701 of PERA and the [Commonwealth Attorneys Act], for the Board to refer to the Attorney General any potential criminal violations of PERA for the exercise of his/her prosecutorial discretion.”).

**f. The PLRB has jurisdiction to investigate and enforce violations of 43 P.S. § 1101.1701.**

Commonwealth courts have previously determined that “the General Assembly unambiguously vested” the “power to implement and enforce Section 1701’s provisions” in the PLRB, including via the use of its investigatory powers under 43 P.S. § 1101.1601. *Trometter v. Pennsylvania Labor Relations Bd.*, 147 A.3d 601, 607 (Pa.Cmwlth. 2016).

### **III. Conclusion**

Pennsylvania law is clear. An employee organization may not contribute general treasury funds, derived from membership dues, to a political candidate, party, or organization without violating the PERA and, if it does so, it must report the illegal contributions to the PLRB. As the largest public-sector union in the state, PSEA has the resources and sophistication to understand applicable state laws governing its conduct, especially one as central to the PSEA’s existence and operations as the PERA. And, indeed, all available evidence indicates that PSEA was keenly aware of the law.

Across all relevant periods, PSEA correctly and repeatedly characterized the PERA’s restriction on its use of members’ dues for political contributions via written communications to its members. Further, as party to prior legal proceedings before the PLRB regarding allegations that it violated the same statute at issue here, the PSEA argued — and the PLRB concluded — that, while the PERA does not prohibit independent expenditures or internal membership communications of a political nature, it *does* bar employee organizations from contributing general treasury funds, directly or through intermediaries, to political candidates, parties or organizations.

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candidate’s political committee or a political party’s political committee; or (b) to be expended in a way that is coordinated with a candidate’s political committee or a political party committee.” (Emphasis added).

Pennsylvania Department of State. “Statement on *General Majority PAC v. Aichele*.” March 2014. <https://www.dos.pa.gov/VotingElections/CandidatesCommittees/CampaignFinance/Pages/Statement-on-General-Majority-PAC-V.-Aichele.aspx>

Even if the PSEA’s two contributions in this case had been for constitutionally protected independent expenditures instead of contributions to political candidates, parties, and/or organizations, the PSEA would still have been obligated by 43 P.S. § 1101.1701 to “file with the board a report or affidavit evidencing such contributions within ninety days of the end of its fiscal year” on November 30, 2022, which it failed to do.

Despite this knowledge, the PSEA and its officers decided to violate 43 P.S. § 1101.1701 by sending nearly \$1.5 million in members' dues to the Democratic Governors Association, an indisputable political party or organization, for the purpose of supporting Josh Shapiro's 2022 gubernatorial candidacy.

Making matters worse, the PSEA and DGA executed this scheme by engaging in additional lawbreaking designed to obscure the illegal contributions from detection: PSEA routed the contributions through the FSS—an unregistered political committee—and failed to file required disclosures with the PLRB, the DGA failed to disclose receipt of the contributions to the Pennsylvania Department of State, and the FSS falsely claimed on its federal tax return that the funds were sent to an independent expenditure committee. PSEA's behavior — paired with Gov. Shapiro's prompt reversal once in office of a key campaign promise the union staunchly opposed — certainly raises at least the appearance of *quid pro quo* corruption.

Accordingly, the PLRB should exercise its investigatory and enforcement authority to fulfill its statutory mandate to “prevent the circumvention or evasion” of 43 P.S. § 1101.1701 by PSEA. We stand ready to provide any additional information, original documentation, or assistance that may enable you to more expeditiously resolve these serious allegations.

Respectfully,

A handwritten signature in black ink, appearing to read 'Maxford Nelsen', written in a cursive style.

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