

**IN THE COURT OF COMMON PLEAS OF DELAWARE COUNTY, PENNSYLVANIA
CIVIL ACTION - LAW**

**IN RE: APPOINTMENT OF A RECEIVER
FOR THE CHESTER UPLAND SCHOOL
DISTRICT**

NO. CV 2012-009781

James R. Flandreau, Esquire and Sean Fields, Esquire,
for Pennsylvania Department of Education

William A. Jacobs, Esquire and Kenneth R. Schuster, Esquire
for Chester Upland School Board

Kevin M. McKenna, Esquire, Carolyn Flynn, Esquire and Sean Kerns, Esquire
For Agora Cyber Charter School, Chester Charter School for the Arts,
Pennsylvania Cyber Charter School, Pennsylvania Virtual Charter School
and Commonwealth Connections Academy

Rocco P. Imperatrice, III, Esquire and Katherine O'Connell Bell, Esquire
For Widener Partnership Charter Schools

Francis Catania, Esquire, James J. Byrne, Jr. Esquire and, Kevin D. Kent, Esquire
for Chester Community Charter School

Michael Puppio, Esquire
for Friends of Chester Community Charter, Chester Charter School for the
Arts

Brian H. Leinhauser, Esquire
For Achievement House Cyber Charter School, Pennsylvania Leadership
Charter School, Pennsylvania Distance Learning Charter School, Education
Plus Academy Cyber Charter School

Mary M. McKenzie, Esquire, Michael Churchill, Esquire, Darlene Ko Hemerka, Esquire,
Maura McInerney, Esquire, Kristina Moon, Esquire, Thomas J. Miller, Esquire and Sozi
Tulante, Esquire
For Parent Petitioners

Jacque Jones, Esquire, Michele J. Mintz, Esquire and Jeffrey T. Sultanik, Esquire
For Chester Upland School District and the Receiver Dr. Baughn

Nafis J. Nichols, **via EMAIL**

ADMINISTRATIVE ORDER

AND NOW, this 16 day of August 2021 upon consideration of the Commonwealth of Pennsylvania, Department of Education's Petition for Appointment of Permanent Receiver of Chester Upland School District or, In the Alternative, an Interim Receiver, and a Hearing on August 5, 2021, and this Court's Order Appointing Nafis J. Nichols as the Interim Receiver for the Chester Upland School District, and a myriad of important issues raised by counsel as to financial recovery, **NOW THEREFORE**, it is hereby **ORDERED** and **DECREED**, as follows

1. Nafis J. Nichols, as Receiver, shall immediately begin upon the start of his Receivership on September 1, 2021, and complete by October 31, 2021, a survey of the conditions and repair needs that may be required of all heating, air conditioning, plumbing, electrical and mechanical systems, roofs, windows, ventilation and insulation, emergency exit doors, water and gas systems and fire protection of all buildings or properties owned or leased, occupied or unoccupied of the Chester Upland School District.
 - a. A report that the Receiver shall prepare shall identify the conditions, and specific repairs required and estimated costs of repairs and dates that the repairs will be completed.
 - b. All buildings and repairs of systems, referred herein, buildings and structures shall comply with State and City Building and Safety Code requirements, as well as any Rules, Regulations, Requirements of the Pennsylvania Department of Education.
 - c. This survey and report shall include all scheduled or required interior repairs, refurbishing, decorating, refurbishment of instructional space, and instructional areas.
2. To be completed by February 28, 2022, the District shall complete both Phase I and Phase II Environmental Site Assessments of all buildings owned or leased, occupied or unoccupied of the Chester Upland School District, including soil on all play and athletic fields to be performed by licensed and reputable inspectors for the purpose of determining whether contaminants, pollutants or other toxic or hazardous substances are present. The Phase II assessment shall be performed in accordance with the ASTM (American Society for Testing and Materials) E1903-

11 Standard Guide and all applicable State and Federal standards and requirements.

In the event that such testing reveals the presence, or likely presence of contaminants, pollutants or other toxic or hazardous substances, this Court may Order that the District obtain a Phase III assessment for the purpose of determining the extent of contamination and may Order that appropriate remedial measures be taken.

The District shall also cause a Radon Inspection of all buildings referred above, to be performed by a certified inspector. If the testing reveals inappropriate exposure to radon, Court may Order that appropriate remedial measures be taken.

The District shall also cause asbestos and mold testing of all buildings referred above, to be performed by a certified inspector, and the results analyzed by a laboratory certified by the Federal Environmental Protection Agency. If the testing reveals the presences of asbestos or mold, this Court may Order that appropriate remedial measures be taken.

To any event any of the assessments, evaluations, and testing, as well as remediation may have been previously completed, the Receiver shall report to the Court on or before February 28, 2022.

Environmental remediation may be a looming liability that requires examination for financial recovery. Our Children, Staff and District Personnel are entitled to be environmentally and physically safe and in good health.

3. The District shall explore and pursue with the Pennsylvania Department of Education and any other strategic partner, all available sources of financial contribution for the environmental site assessments, reports, remedial actions that may be required and any costs incurred to safeguard the health and safety of the District personnel and students.
4. This Court is at a loss to whatever extent the District has outsourced and/or delegated business, management and financial operations to the Montgomery County Intermediate Unit. Except for general representations, this Court does not know the extent the Revised Financial Recovery Plan is being complied with or served by the Montgomery County Intermediate Unit. The Court, nor the parties hereto, have received a specific description and scope of the delegation and/or contracts, specific services provided by the Montgomery County Intermediate Unit, costs, savings, contemplated changes and duration of time until services are returned to the District, if at all.

- a. A copy of any contracts and Memorandum of Tasks assigned and delegated to the Montgomery County Intermediate Unit shall be filed of record and a courtesy copy provided to his Court within ten (10) days of this Order.
5. By November 30, 2021, the Receiver shall file of record and provide the Court with a courtesy copy and status report of the timely completion and filing of all financial audits that are required and outstanding.
6. Beginning on November 30, 2021 and continuing quarterly, the Receiver shall file of record, and with a courtesy copy to the Court, a quarterly report, serving as a "report card", reporting on the financial, administrative and educational recovery.
- i.e. November 30, 2021
March 31, 2022
June 3, 2022
7. On or before November 30, 2021, the Receiver shall file of record, and courtesy copy to the Court, an accounting of all "one time" Federal and/or State Emergency funding received (ie CARES ACT, ESSER I and II Funds, American Rescue Plan Funds), including their allocation, proceeds spent and/or encumbered, and proposed use of these funds.
8. Being advised that the Districts Financial Recovery Status may end in May of 2022, subject to the Pennsylvania Department of Education's Petition and/or Order and this Court's review as may be required, the undersigned hereby ORDERS that the Receiver, in consultation with the Pennsylvania Department of Education, and strategic consultants, file of record and a courtesy copy to this Court, on or before March 31, 2022 a check list as a "road map" or benchmarks of events and accomplishments to cause the Receivership to end, as the District's Financial Recovery Status may no longer be necessary.

BY THE COURT:



Barry C. Dozor, J.