

Portage Education Association

Did you know...

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Supreme Court Hears 3% Arguments

<https://mea.org/supreme-court-hears-3-arguments/>

Lawyers for MEA and AFT Michigan argued before the Michigan Supreme Court Wednesday in a dramatic culmination to a seven-year legal battle the two unions have waged seeking the return of \$550 million taken from the paychecks of 200,000 public school employees.

The state's high court is expected to issue a decision by next summer in Gov. Rick Snyder's third appeal of lower court rulings against the state. Snyder has reportedly spent at least \$196,000 of taxpayer money to hire an outside law firm to handle the final leg of the case – Attorney General Bill Schuette was responsible for litigating all the prior appeals.

Wednesday's legal wrangling centered on the constitutionality of a law passed during a 2010 financial downturn in Michigan. PA 75 mandated school districts withhold 3 percent of school employees' pay and give the money to the state to fund health care costs of existing retirees.

The money was collected for nearly two years, from 2010 through 2012, but has been held in escrow pending the outcome of litigation ever since the lawsuit was filed in 2010.

"The selection of current public school employees to pay for a benefit for those currently retired is unreasonable," said Mark Cousens, a lawyer representing AFT Michigan. "The state took the money without consent and without assurance of benefit."

At issue is whether PA 75 represented an impairment of contracts, an unconstitutional taking of property without compensation, and violation of substantive due process. On those issues, the attorney hired by Snyder to argue the state's case, Gary Gordon, at times faced withering questions from Justice Richard Bernstein.

"Is it a tax?" Bernstein asked Gordon about the state's unilateral taking of school employees' wages. "What is it?"

Gordon hesitated before answering, "It could be construed as a tax."

"If it's a tax, is this a special tax for teachers?" Bernstein continued. "If I'm a teacher, I'm going to pay a special teacher tax?"

Gordon responded that he had misspoken. "It's more of a user fee," he said.

Three earlier lower court rulings found PA 75 violated federal and state constitutional protections.

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PA 75 did not guarantee school employees would receive the health care benefits they were supposedly paying for with the extraction of 3 percent of their pay. Meanwhile, amid the legal fight, lawmakers passed PA 300 in 2012 to fix constitutional infirmities with the earlier law.

PA 300 passed legal muster, because it gave school employees a choice to pay the 3 percent for guaranteed health benefits in retirement or to opt out of the payment and the benefit.

Justice David Viviano asked the attorney for the state about the second law passed in 2012: “PA 300 only addresses money collected going forward, doesn’t it?”

Gordon tried to argue that PA 300 was intended to supersede the earlier law and should be applied retroactively to the hundreds of millions of dollars collected for two years under PA 75. But MEA and AFT Michigan lawyers said the law contains no such provision.

Legal precedent would require the Legislature to be “clear, direct, and unequivocal” in statutory text if the intent were to apply a law retroactively, argued MEA attorney Timothy Dlugos. No such language exists in PA 300, Dlugos said, adding of the state’s argument otherwise: “This has been a connect-the-dots analysis.”

The choice that school employees made in 2012 under PA 300 – either consenting to pay 3 percent of their wages into a health care fund to guarantee a benefit or opting out of both – was made prospectively, attorney Cousens said.

He compared the argument to having a thief steal his wallet at gunpoint and then return two weeks later to apologize and give it back. At that point, perhaps it’s possible to forgive the theft but certainly not to consent to it, he said.

The lawyers for the unions presented a great case, said MEA member Kim Jones, an attorney and professor of English and law at Washtenaw Community College who attended the hearing. Jones pointed to a comment made by Justice Bridget McCormack, who asked the attorney for the state if he believed public employees’ rights fluctuated with the state’s budget woes.

“I was excited, because a bunch of the justices seemed to be on our side,” Jones said. “I’m hopeful the Supreme Court will do the right thing.”

However, MEA General Counsel Mike Shoudy cautioned against reading too much into the justices’ behavior during the hearing. “It’s hard to predict what will happen based on the questions they ask, but it was a good dialogue,” he said. “Our attorneys strongly represented our positions.”

The Supreme Court will rule on the case by the end of this court session in summer 2018, Shoudy said. “We certainly hope for an answer sooner... For now, we simply need to wait for a ruling, and we’ll keep MEA’s members updated on anything we hear.”

Positive Portage

The Last Night Under the Lights celebration at McCamley Field was a huge success! Thank you to everyone who made it such a great event!

Have some positive news to share? Send it to peacommunications2016@gmail.com

PEA Calendar

The PEA has a Google Calendar that you can add! It contains helpful reminders about half days, PEA meetings, and conferences. To add, click [HERE](#).

Senate to Consider Bills Allowing Concealed Guns in Schools

<https://mea.org/breaking-senate-to-consider-bills-allowing-concealed-guns-in-schools/>

[Monday] evening, we received word that the State Senate would be considering a package of bills this week that would allow concealed weapons in gun-free zones like schools or churches.

MEA strongly opposes this legislation for the safety of students and school employees alike, and has been part of a coalition fighting similar legislation for several years.

The answer to gun violence is not more guns in schools – in fact, it’s a recipe for disaster. Making it legal to conceal a pistol in a preschool is a tragedy waiting to happen, regardless of the training concealed weapon holders undergo.

Instead of these bills, the Legislature should simply close the [controversial legal loophole allowing open-carry of guns in schools](#) and make gun-free zones truly gun free.

[Call your State Senator TODAY](#) and urge them to vote **NO on SBs 584-586.** Tell your Senator that – as an educator – you want fewer guns in school, not more. We’re hearing the Senate plans to rush this legislation through before the hunting break, so urgent action is needed.

(Since MEA published this, the bills have passed the Senate and are now on to the House.)

MEA Statement on Legislation Allowing Concealed Weapons in Schools

<https://mea.org/mea-statement-on-legislation-allowing-concealed-weapons-in-schools/>

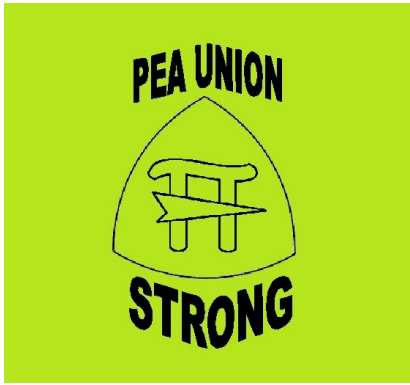
EAST LANSING – Michigan Education Association President Paula Herbart issued the following statement today on Senate consideration of SBs 584-586, allowing concealed weapons in schools:

“MEA strongly opposes this legislation for the safety of students and school employees alike. Education and parent groups have joined us in opposing this misguided legislation because they too understand that the answer to gun violence is not more guns in schools—in fact, that’s a recipe for disaster.

“The only people who should be allowed to carry firearms in public schools are police officers and school security personnel, period.

“Once again, legislators have failed to ask professional educators, who are the experts on the frontlines, if they think this is a good idea. Had they done that, this legislation would never have seen the light of day.

“Instead of these bills, the Legislature should simply close the controversial loophole allowing open-carry in schools and make gun-free zones truly gun free.”



Portage Education Association

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Good afternoon all,

I would like all of you to know that I will begin visiting your buildings this month the list are below. If you see that there's a conflict with the date that I've chosen please simply let me know this. I will be in your buildings starting at 12 p.m. staying for about two and a half to three hours. You will be able to have a conversation with me in the Teachers Lounge during that time or if I need to please let me know ahead of time and I will make arrangements to see you in your classroom. I look forward to visiting your buildings and seeing what we can continue to do to help you move forward in your educational career

Northern High School Nov 29
Central High School Nov 16
North Middle School Nov 20
West Middle School Nov 21
Central Middle Nov 27
12th street Nov 14
Amberly Nov 7
Angling Road Nov 9
Central Elem Nov 13
Haverhill Nov 8
Lake Center Nov 28
Moorsbridge Nov 10
Woodland Nov 15

-Chris Furlong

Putting Kids First

[www.portageea.org]

Know Your Contract!

Article 21—Professional Compensation

Section 5: An amount of 0.2% of the base of the Bachelor's Degree Schedule as shown on Schedule A, per semester hour shall be added to the appropriate step of Schedule A of a teacher with a B.A. or B.S. degree for each hour of graduate credit earned above the hours necessary to make the teacher's provisional certificate a professional education, permanent or continuing certificate. Such reimbursement shall be made provided:

- a) The credit was earned from an accredited institution of higher education designated as a four-year college or university
- b) That all courses were approved on the appropriate form by the Superintendent of Schools prior to the teacher's registration for the course.
- c) Such reimbursement shall be made following submission of proof of satisfactory completion of the course.
- d) The maximum number of hours reimbursed shall be thirty (30) hours minus those hours required for permanent or continuing certification.

In order to receive salary adjustments based on this Section for the fall semester, passing grades must be submitted by the next February 1 following the completion of the course except that the adjustment made at the beginning of the second semester shall be based on 0.1% of the base of the Bachelor's Degree Schedule per semester hour.