

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
AT NASHVILLE

ALZENIA WALLS and the)
SUMNER COUNTY EDUCATION)
ASSOCIATION,)

Plaintiffs,)

Case No. _____

v.)

SUMNER COUNTY BOARD OF)
EDUCATION,)

Defendant.)

COMPLAINT

The Plaintiffs Alzenia Walls (“Dr. Walls”) and the Sumner County Education Association (“SCEA”) sue the Defendant Sumner County Board of Education (“Board of Education”) and for cause of action state:

I. The Parties.

1. The Plaintiff Dr. Walls is a citizen and resident of Sumner County, Tennessee. The Plaintiff Dr. Walls is and has at all relevant times been employed by the Defendant Board of Education as a teacher in the Sumner County School System. The Plaintiff Dr. Walls is a “professional employee” as that term is defined in Tenn. Code Ann. § 49-5-602(8). The Plaintiff Dr. Walls currently serves as President of the SCEA.

2. The Plaintiff SCEA is an unincorporated voluntary association of professional employees of the Sumner County School System. The Plaintiff SCEA is a “professional employees’ organization” as defined in Tenn. Code Ann. §49-5-602(9). The Plaintiff SCEA has standing in its own right to pursue state law claims of unlawful acts under the Professional Educators Collaborative Conferencing Act of 2011 (PECCA).

The Plaintiff SCEA has associational standing to pursue the federal constitutional claims and state law claims alleged herein on behalf of its members.

3. The Sumner County School System is a county school system created or authorized by the Tennessee General Assembly and is a “local education agency (LEA)” as defined in Tenn. Code Ann. § 49-1-103(2). The Defendant Board of Education is a body politic that is responsible for managing and controlling all of the public schools established in the Sumner County School System. The Defendant Board of Education is the “Board of Education” or “local Board of Education” for the Sumner County School System as defined in Tenn. Code Ann. § 49-5-602(1).

4. The Defendant Board of Education employs a Director of Schools who acts as the statutory agent for the Board of Education. Among the duties that the Board of Education is required by law to assign to its agent the Director of Schools is the duty to “[a]ct for the board in seeing that the laws relating to the schools ... are faithfully executed.” Tenn. Code Ann. § 49-2-301(b)(1)(A). The current Director of Schools for the Sumner County School System is Dr. Del R. Phillips III (“Director Phillips”).

5. All of the actions of the Defendant Board of Education as alleged herein, whether undertaken by the Board of Education itself or by the authorized agents of the Board of Education, were taken under color of state law.

II. Jurisdiction and Venue.

6. This is an action under 42 U.S.C. § 1983 to recover for violations of the Plaintiffs’ constitutional rights of freedom of association, freedom of speech, and freedom of petition under the First Amendment to the United States Constitution. The

Court has jurisdiction under 28 U.S.C. § 1331 and 1343. This action also includes state law claims under PECCA arising from the same set of operative facts. The Court has supplemental jurisdiction over those state law claims under 42 U.S.C. § 1367.

7. All of the parties reside in the middle district of Tennessee, and all of the matters complained of occurred in the middle district of Tennessee. Venue is appropriate in this Court.

III. Prior Litigation.

8. For a number of years the Plaintiff SCEA and the Defendant Board of Education were parties to a series of collective bargaining agreements negotiated and ratified in accordance with the provisions of the Education Professional Negotiations Act (EPNA). The most recent of those agreements was the contract covering the period from July 1, 2006 through June 30, 2009. Pursuant to the “status quo” requirements of the EPNA, the terms and conditions of employment in that contract remained in effect while the parties engaged in negotiations for a successor agreement.

9. On October 14, 2010, the Defendant Board of Education “challenged” the Plaintiff SCEA’s recognized status under the EPNA. On January 18, 2011, relying on its October 14 “challenge,” the Defendant Board of Education announced that it would no longer engage in negotiations with the Plaintiff SCEA for a successor agreement under the EPNA. Instead of continuing to maintain the status quo, the Board of Education began implementing unilateral changes in the terms and conditions of professional employment which included, *inter alia*, increases in the monetary amounts deducted from professional employees’ pay for the cost of health insurance premiums and a cessation of payroll deduction of SCEA dues.

10. On February 1, 2011, the SCEA filed a Verified Complaint and an Application for a Preliminary Injunction in the Sumner County Chancery Court, Docket No. 2011-C-26, alleging numerous unlawful acts by the Board of Education in violation of the terms of the EPNA, including a failure to negotiate in good faith and a failure to substantiate the SCEA's alleged lack of majority status on October 14, 2010, as required by the terms of the EPNA ("Prior Litigation"). The SCEA sought a preliminary injunction that would require the Board of Education to return to good faith negotiations, including the cessation of unilateral changes to terms and conditions of employment that constitute a failure to negotiate in good faith as a matter of law. On March 22, 2011, the Chancery Court granted the SCEA a preliminary injunction which was memorialized in an Order filed on April 8, 2011.

11. On June 1, 2011, the Governor signed into law the Professional Educators Collaborative Conferencing Act of 2011 (PECCA). PECCA amended the EPNA by repealing its provisions and replacing them with a new statutory scheme. A copy of the text of PECCA is attached as Exhibit A.

12. After the passage of PECCA, the Board of Education filed a Motion to Dismiss in the Prior Litigation. In an order entered July 8, 2011, the Chancery Court dismissed those counts in the Prior Litigation seeking injunctive relief for the Board of Education's various acts because the passage of PECCA rendered those counts moot. The Chancery Court did not dismiss the two counts seeking monetary relief for losses suffered prior to the passage of PECCA as a result of unilateral changes by the Board of Education in terms and conditions of employment, namely the increase in teachers' share of health insurance premiums and the cessation of payroll deduction of SCEA dues.

IV. Facts.

13. On or about July 14, 2011, the Plaintiff Dr. Walls called Director Phillips to request that the SCEA be permitted to participate as it had in prior years in the “New Teacher In-Service.” That participation consisted of providing a breakfast for new teachers at the in-service; providing information about the SCEA at the breakfast and during breaks in the in-service; setting up tables in the hallway outside the in-service; and setting up a “store” where new teachers could purchase school supplies. Dr. Walls followed her call with a letter on July 19, 2011, reiterating the request. A copy of that letter is attached as **Exhibit B.**

14. The Defendant Board of Education met on July 19, 2011. At that meeting, the Plaintiff Dr. Walls approached Director Phillips and asked again if the Plaintiff SCEA would be permitted to set up a table at the New Teacher In-Service. After conferring with an attorney representing the Board of Education, Director Phillips informed Dr. Walls that the SCEA would not be allowed to be present at the New Teacher In-Service.

15. The SCEA is a local affiliate of the Tennessee Education Association (TEA). The TEA employs staff members, called “UniServ Coordinators,” who work with the various local affiliate associations throughout the State. Art Patterson is a TEA UniServ Coordinator who works with the SCEA. Art Patterson was present at the exchange between the Plaintiff Dr. Walls and Director Phillips on July 19, 2011. On July 21, 2011, Art Patterson sent a letter to Director Phillips urging him to reconsider his decision not to allow the SCEA to be present at the New Teacher In-Service. A copy of that letter is attached as **Exhibit C.**

16. On July 26, 2011, Director Phillips sent a letter to all Sumner County School System teachers in which he recited that the Court in the Prior Litigation had ruled that PECCA was constitutional and replaced totally the EPNA. Relying on that ruling, Director Phillips declared that “the Sumner County Education Association (SCEA) has no right to any of the following...” Among the sixteen items that Director Phillips then listed were:

- use of school buildings, facilities and equipment for SCEA meetings or functions;
- the posting of notices of activities and/or events on teacher bulletin boards;
- Use of the school system’s regular inter-school mail delivery system (email) and/or teachers’ bulletin boards for any purpose;
- transacting any SCEA business on school property at any time;
- granting of specific leave time due to holding SCEA office or attending SCEA/TEA (Tennessee Education Association) functions;
- participation in ‘Committee on Education Concerns;’
- representation for teachers reprimanded, warned or disciplined;
- participation in new teacher orientation and/or teacher in service programs;
- solicitation of membership formally or informally during any form of staff development.

In his concluding statements Director Phillips declared, “Current state law has significantly changed our district’s relationship with TEA/SCEA.” A copy of Director Phillips’ July 26, 2011, letter to Sumner County teachers is attached as Exhibit D.

17. On July 29, 2011, Director Phillips sent a letter to Art Patterson of the TEA that was similar to the July 26 letter to Sumner County teachers. At the conclusion of his letter to Art Patterson, Director Phillips said, “In following the new law, Sumner County Schools is not able to honor the requests outlined in your letter dated July 21,

2011.” A copy of Director Phillips’ July 29, 2011, letter to Art Patterson is attached as

Exhibit E.

18. Tenn. Code Ann. § 49-5-606 requires that complaints of unlawful acts be first submitted to the local board of education. In accordance with that requirement, the Plaintiff Dr. Walls and seven other professional employees of the Sumner County school system comprising the Executive Board of the SCEA on August 1, 2011, wrote a “Complaint of Unlawful Acts” and mailed it to Director Phillips and to each member of the Defendant Board of Education. A copy of the August 1, 2011, Complaint of Unlawful Acts is attached as **Exhibit F.**

19. On August 3, 2011, the Board of Education’s attorney Arthur McClellan wrote a letter to the SCEA’s attorney. In that letter Mr. McClellan described the communications by Dr. Walls and Mr. Patterson to Director Phillips as “harassment.” Mr. McClellan threatened litigation against individual SCEA members if they communicated further with the Board or its representatives other than in communications between counsel. Mr. McClellan also threatened litigation against the TEA and individual members of the TEA in general as well as Art Patterson in particular if they had further communication with the Board of Education or its representatives. In making these threats, Mr. McClellan was acting as the agent of and on behalf of the Defendant Board of Education. A copy of Mr. McClellan’s August 3, 2011, letter is attached as

Exhibit G.

20. Although his August 3, 2011, letter (Exhibit G) evidenced Mr. McClellan’s understanding that the SCEA’s attorney also represented the TEA, Mr. McClellan nonetheless wrote a letter directly to TEA employee Art Patterson on the same

date. Mr. McClellan demanded that neither Mr. Patterson nor the TEA have any further contact with the Board of Education, its administration, or its staff. Mr. McClellan closed his letter by stating, “I must insist that you direct all requests and/or suggestions exclusively through TEA’s attorney!” A copy of Mr. McClellan’s August 3, 2011, letter to Art Patterson is attached as Exhibit H.

21. On August 4, 2011, the SCEA’s attorney wrote a letter to Mr. McClellan seeking clarification of the Board’s position as set forth in Mr. McClellan’s August 3 letter (Exhibit G). A copy of that August 4 letter is attached as Exhibit I.

22. In reply, Mr. McClellan sent a letter on the Board of Education’s behalf on August 5, 2011, a copy of which is attached as Exhibit J. In that letter Mr. McClellan clarified:

“During the pendency of this action all communications of any form on any subject must be made through our respective offices. That is indeed the Boards insistence in that SCEA has no legal standing under PECCA to do anything in as much as the SCEA/Board contract has expired and SCEA has not been designated as a ‘LEA’ by fifteen (15%) percent or more of the professional employees.” [emphasis in original].

23. The Defendant Board of Education answered the August 1, 2011, Complaint of Unlawful Acts (Exhibit F) by letter from Mr. McClellan dated August 31, 2011, a copy of which is attached as Exhibit K. In the month that passed between the submission of the Complaint of Unlawful Acts and the Board of Education’s answer, school resumed. The resumption of school coincides with the principal efforts by the SCEA, and the professional employees like the Plaintiff Dr. Walls who comprise the SCEA’s membership, to retain existing members and secure new members. During that

month between the submission of the Complaint of Unlawful Acts and the Board of Education's answer, the Board of Education did not communicate with the SCEA or the professional employees who submitted the Complaint about any of its substance, and the SCEA and the professional employees who submitted the Complaint remained bound by the limitations imposed by the Defendant Board of Education in letters from the Defendant's agents (Exhibits D, G, and J).

COUNT ONE
(Freedom of Association)

24. The Defendant Board of Education, acting through its duly authorized agent Director Phillips, singled out the Plaintiff SCEA for adverse treatment in Director Phillips' July 26, 2011, communication to all Summer County teachers. Through that communication, the Defendant Board of Education declared that the Plaintiff SCEA alone, and not any other organization, had no right to engage in various activities including but not limited to (a) using school facilities for meetings or functions; (b) posting notices of activities or events on teacher bulletin boards; (c) using the school system's inter-school mail delivery system for any purpose; (d) using teachers' bulletin boards for any purpose; (e) transacting any business on school property at any time; (f) participating in the "Committee on Education Concerns;" (g) representing teachers who were reprimanded, warned or disciplined; (h) participating in the development of the school calendar; and (i) participating in new teacher orientation and/or teacher in service programs.

25. By singling out the Plaintiff SCEA for these limitations on activities, the Defendant Board of Education intended to and did interfere with the freedom of association enjoyed by the Plaintiff Dr. Walls and other members of the Plaintiff SCEA.

26. The Defendant Board of Education's communication to teachers on July 26, 2011, singling out the Plaintiff SCEA and listing limitations on the activities of the Plaintiff SCEA, was intended to discourage association by teachers through membership in the SCEA.

27. In singling out the Plaintiff SCEA for this July 26, 2011, announcement of limitations on its activities, the Defendant Board of Education acted with a deliberate intent to interfere with the right to freedom of expressive association enjoyed by the Plaintiff Dr. Walls and other members of the Plaintiff SCEA under the First Amendment to the United States Constitution.

28. The Defendant Board of Education also has singled out anyone associated with the Plaintiff SCEA, including the Plaintiff Dr. Walls, any other SCEA member, and any employee of the Tennessee Education Association, for a prophylactic restriction on all communication with the Board of Education and its administrative employees related to any matter whatsoever. This restriction, imposed with a threat of retaliatory litigation if not complied with, has a chilling effect upon the speech of the Plaintiffs and all SCEA members and potential members and interferes with the Plaintiffs' freedom of expressive association under the First Amendment.

COUNT TWO
(Freedom of Speech)

29. Tenn. Code Ann. § 49-5-601(b)(1) of PECCA declares that local boards of education and their professional employees "have an obligation to the public to exert their full and continuing efforts to achieve the highest possible education standards in the institutions that they serve." The statute declares that this "obligation to the public" requires the establishment and maintenance of an educational climate and working

environment that will attract and retain a highly qualified professional staff and foster open, collaborative relationships between boards of education and their professional employees based upon mutual respect, in order to stimulate optimum performance by the staff and encourage each and every professional employee to contribute the employee's best to the enhancement of public schools. The statute then declares:

“In order to best achieve these ends, it is the purpose of this part to set forth and recognize the legitimate rights and obligations of boards of education and their professional employees, to establish procedures governing their respective roles and the important relationships between them, and to promote a professional climate based upon mutual interest in order to focus efforts on teaching and learning for all students of the public schools.”

30. Tenn. Code Ann. § 49-5-601(b)(2) of PECCA declares:

“Experience has shown that boards of education and their professional employees can best reach the objectives described in subdivision (b)(1), if each considers the ability, experience and judgment of the other in formulating policies and making decisions that involve the operations of Tennessee's public schools through a collaborative effort of mutual interest and mutual gain.”

31. Tenn. Code Ann. § 49-5-601(b)(3) of PECCA declares:

“It is the purpose and policy of this part to recognize the interests of individual employees in their relations with boards of education and to recognize certain rights, but not obligations, of professional employees to form, join and assist professional employees' organizations....”

32. In furtherance of these public purposes, the General Assembly in Tenn. Code Ann. § 49-5-603 of PECCA has guaranteed to professional employees “the right to self-organization, to form, join or be assisted by organizations ... and to engage in other concerted activities for the purpose of other mutual aid and benefit....”

33. Tenn. Code Ann. § 49-5-606(a)(1) of PECCA makes it an unlawful act for a board of education or its management personnel to impose or threaten to impose reprisals on professional employees or discriminate against professional employees by reason of their exercise of their rights guaranteed in PECCA.

34. Tenn. Code Ann. § 49-5-606(a)(2) of PECCA makes it an unlawful act for a board of education or its management personnel to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in § 49-5-603.

35. Tenn. Code Ann. § 49-5-603 of PECCA also gives professional employees the right to participate in “collaborative conferencing” with local boards of education through representatives of their own choosing. Tenn. Code Ann. § 49-5-605 of PECCA sets out a procedure for professional employees to select representatives for the purpose of participating in “collaborative conferencing.” Under Tenn. Code Ann. § 49-5-601(e) of PECCA, no “collaborative conferencing” is to be conducted by a local board of education until a training program to be developed by the Tennessee Organization of School Superintendents has been developed and implemented within the local education agency. Once that program has been implemented, if a representative has been duly selected, it will be a separate unlawful act under Tenn. Code Ann. § 49-5-606(a)(3) for a board of education or its management personnel to refuse or fail to participate in collaborative conferencing under PECCA.

36. The only guaranteed right under PECCA that depends upon the selection of a representative under Tenn. Code Ann. § 49-5-605 of PECCA is the right to participate in “collaborative conferencing.” The only guaranteed right under PECCA that

is delayed under the terms of the Act is the right to engage in “collaborative conferencing,” which awaits implementation of a training program.

37. Consistent with the declarations by the General Assembly of the purposes of PECCA as set forth in Tenn. Code Ann. § 49-5-601(b) of PECCA, the exercise by the Plaintiffs of their guaranteed rights under PECCA to communicate among themselves, to communicate with new teachers, and to communicate with other professional employees about matters related to professional employment constitutes an exercise of their right of speech on matters of public concern.

38. Consistent with the declarations of the General Assembly of the purposes of PECCA as set forth in Tenn. Code Ann. § 49-5-601(b) of PECCA, the inquiries by the Plaintiff Dr. Walls, individually and as a representative of the Plaintiff SCEA, to Director Phillips regarding proposed communications with new teachers at the New Teacher In-Service, as well as the proposed communications themselves, constituted speech on matters of public concern.

39. By singling out the Plaintiff SCEA for restrictions on speech on matters of public concern, as set forth in the July 26, 2011, letter to all teachers from Director Phillips, the Defendant Board of Education interfered with the protected speech of members of the Plaintiff Dr. Walls and the SCEA in violation of the Plaintiffs’ rights under the First Amendment to the United States Constitution.

40. By refusing to allow the Plaintiff SCEA to participate in any way in expressive communication with new teachers anywhere in the vicinity of the New Teacher In-Service, the Defendant Board of Education interfered with the protected

speech of Dr. Walls and of members of the SCEA in violation their rights under the First Amendment to the United States Constitution.

41. By insisting that the Plaintiff SCEA and the Plaintiff Dr. Walls have no further communication with the Defendant Board of Education and its administrative employees on any subject whatsoever except by routing that communication through attorneys, the Defendant Board of Education imposed an unreasonable restriction on the Plaintiffs' speech on all matters, including matters of public concern, in violation of the rights of members of the SCEA and Dr. Walls under the First Amendment to the United States Constitution.

42. By threatening Dr. Walls and individual SCEA members with litigation if they communicated directly with the Defendant or its administrative employees on any subject, the Defendant Board of Education imposed a prophylactic restriction on the speech of members of the SCEA and the Plaintiff Dr. Walls extending to all subjects of speech, including speech on matters of public concern, in violation of their rights under the First Amendment to the United States Constitution. The threat of litigation against individuals associated with the SCEA for speaking to the Defendant or any of its administrative employees on any subject, whether related to the Prior Litigation or not, has a chilling effect on the speech of the Plaintiffs and anyone associated with the Plaintiff SCEA.

43. The Plaintiffs believe and allege that the foregoing actions and restrictions imposed by the Defendant Board of Education have been undertaken in a deliberate effort to stifle the speech of the Plaintiffs because of the Defendant's disagreements with the viewpoints of the Plaintiffs.

COUNT THREE
(Freedom of Petition)

44. Tenn. Code Ann. § 49-5-601(b)(2) of the EPNA declared that boards of education and their professional employees had an obligation to the public to exert their full and continuing efforts to achieve the highest possible education standards in the institutions that they serve, and that obligation to the public required the establishment and maintenance of an educational climate and working environment that would attract and retain a highly qualified professional staff and stimulate optimum performance by the staff.

45. Tenn. Code Ann. § 49-5-601(b)(3) of the EPNA declared that the public obligations and objectives described in the preceding subsection could best be reached if boards of education and professional employees utilized the ability, experience and judgment of each other in formulating policies and making decisions that involve terms and conditions of professional service and other matters of mutual concern.

46. In its action of filing and pursuing the Prior Litigation, the Plaintiff SCEA and the professional employees who are members of the SCEA have been exercising their right to petition for redress of their grievances as guaranteed by the First Amendment to the United States Constitution. The petition, the Prior Litigation, involves matters of public concern as declared by the General Assembly in the EPNA.

47. The actions of the Defendant Board of Education in singling out the Plaintiffs and members of the SCEA for restrictions on their conduct constitute retaliation for and interference with the Plaintiffs' exercise of their right of access to the courts, to petition for redress, as guaranteed by the First Amendment to the United States Constitution.

48. The Defendant Board of Education has threatened the Plaintiffs and members of the SCEA with retaliatory legal action because of their protected speech to and petitioning of the Board in connection with the New Teacher In-Service.

49. The Defendant Board of Education has insisted that the Plaintiffs and members of the SCEA as well as anyone associated with them, including employees of the Tennessee Education Association, have no direct interaction with the Board of Education or any administrative employee of the Board of Education on any matter whatsoever, regardless of whether the matter relates to the Prior Litigation.

50. The Defendant's prophylactic restriction on the Plaintiffs' contact with the Defendant, accompanied by a threat of retaliatory legal action, is an unconstitutional limitation on the Plaintiffs' exercise of their First Amendment freedom of petition.

51. The prophylactic restriction by the Defendant Board of Education on speech by the Plaintiff Dr. Walls and any other professional employee associated with the Plaintiff SCEA, under threat of legal action, has a chilling effect on the Plaintiffs' speech and infringes upon the Plaintiffs' freedom of speech, freedom of expressive association, and freedom of petition, all of which are protected by the First Amendment from such regulatory interference.

COUNT FOUR
(Unlawful Acts under PECCA)

52. PECCA guarantees to professional employees the right to self-organization, to be assisted by organizations, and to engage in other concerted activities, Tenn. Code Ann. 49-5-603; the right to be free of imposed reprisals or threats of reprisals or discrimination by reason of their exercise of rights guaranteed under PECCA, Tenn. Code Ann. § 49-5-606 (a)(1); and the right to be free from interference, restraint or

coercion in the exercise of their right to join organizations and engage in concerted activities, Tenn. Code Ann. § 49-5-606(a)(2).

53. PECCA guarantees to professional employees' organizations the right to have access at reasonable times before or after the instructional day to areas in which professional employees work; to use institutional bulletin boards, mail boxes, or other communication media; and to use institutional facilities as permitted by local board policy or procedures for community use at reasonable times for the purpose of holding a meeting concerned with the exercise of rights guaranteed by PECCA. Tenn. Code Ann. § 49-5-606(a)(4).

54. PECCA makes it unlawful for a board of education to encourage or discourage membership in any organization by discrimination in terms or conditions of employment. Tenn. Code Ann. § 49-5-606(a)(5).

55. PECCA makes it unlawful for a board of education to dominate or interfere with the administration of any professional employee organization. Tenn. Code Ann. § 49-5-606(a)(7).

56. Under PECCA, a professional employees' organization has the right to prescribe its own rules with respect to operation involving the acquisition or retention of membership. Tenn. Code Ann. § 49-5-606(b)(1). A professional employees' organization may enter onto school grounds for the purpose of contacting professional employees as long as it does so in such a manner and at such times as will avoid interference with the normal operations of the school. Tenn. Code Ann. § 49-5-606(b)(6).

57. The dissemination of the July 26, 2011, letter to all teachers in Sumner County (Exhibit D) as well as the dissemination of the July 29, 2011, letter to Art Patterson (Exhibit E) constituted unlawful acts under to Tenn. Code Ann. § 49-5-606(a)(1), (2), (4), and (7). The Defendant Board of Education communicated inaccurate information to the professional employees of Sumner County by suggesting to them that the Chancellor's ruling in the Original Litigation stripped the SCEA of numerous rights it still enjoys under PECCA. The Plaintiffs believe and allege that the distribution of such inaccurate information to teachers was a deliberate effort by the Defendant Board of Education to discourage membership in the SCEA and to restrict the exercise by the Plaintiffs and other professional employees of rights guaranteed in PECCA.

58. Tenn. Code Ann. § 49-5-606(c)(1) requires that a complaint of an unlawful act be filed first with the board of education. PECCA contemplates that the board of education will engage in a good faith effort to reach a reasonable resolution of the complaint.

59. The Defendant Board of Education waited until August 31, 2011, after school had begun and almost a full month after the Complaint of Unlawful Acts (Exhibit F) was submitted, to answer the Plaintiffs' Complaint of Unlawful Acts. The Defendant's delay in answering the Complaint of Unlawful Acts was accompanied by the imposition of restrictions upon all communications by the Plaintiffs with the Defendant Board of Education under threat of retaliatory litigation (Exhibits G, J). As a consequence of these combined actions, the Defendant Board of Education frustrated the Plaintiffs' communications among themselves, with professional employees, and with

their employer and thereby restricted the Plaintiffs' ability to engage in activities protected under Tenn. Code Ann. § 49-5-603 during the time that school was beginning.

60. The August 31, 2011, answer (Exhibit K) evidences the Board of Education's intent to continue depriving the Plaintiffs of their rights guaranteed under Tenn. Code Ann. § 49-5-603 as well as other rights protected by the terms of PECCA. By misreading and misapplying the provisions of PECCA, the Board of Education is continuing its efforts to undermine membership in the SCEA by acts which interfere with the protected rights of the Plaintiffs as well as all other professional employees of the Sumner County School System.

61. All of the foregoing actions of the Defendant Board of Education and its authorized agents have been undertaken in conjunction with the start of the 2011-2012 school year, at a time when the deprivations of the Plaintiffs' constitutional and statutory rights and the miscommunications to professional employees about the Plaintiff SCEA will adversely affect the ability of the Plaintiff SCEA to gain new members and retain existing members.

62. The deprivation of the Plaintiffs' constitutional and statutory rights to associate and communicate are causing immediate and irreparable harm that cannot be measured or remedied by money damages. The actions of the Defendant as set forth herein have inhibited the Plaintiffs' ability to associate with and communicate with professional employees and have restricted the Plaintiffs' ability to communicate with their employer. Those inhibitions and restrictions are ongoing.

PREMISES CONSIDERED, the Plaintiffs pray:

1. That process be served upon the Defendant requiring it to answer;
2. That the Court issue a preliminary injunction, enjoining the Defendant Board of Education and its authorized agents from their continued interference with the Plaintiffs' First Amendment rights in the form of restrictions on speech, expressive association, and petition as well as the Plaintiffs' protected rights under PECCA;
3. That, following a trial, the Court declare that the Defendant Board of Education has interfered with and violated the Plaintiffs' First Amendment rights to freedom of association, freedom of speech, and freedom to petition for redress of grievances, and permanently enjoin the Defendant and its authorized agents from further violations of those First Amendment rights;
4. That, following a trial, the Court state its findings of fact, declare that the Defendant Board of Education has engaged in unlawful acts in violation of Tenn. Code Ann. § 49-5-606(a) as outlined herein, and order the Board of Education to cease and desist from such unlawful acts, all in accordance with Tenn. Code Ann. § 49-5-606(c);
5. That the Court order the Defendant Board of Education to pay the Plaintiffs' reasonable attorneys' fees as a part of the costs in accordance with 42 U.S.C. § 1988; and

6. That the Court award such further and general relief as the equities of this cause may require and the Court may deem just and proper.



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STATE OF TENNESSEE
COUNTY OF SUMNER

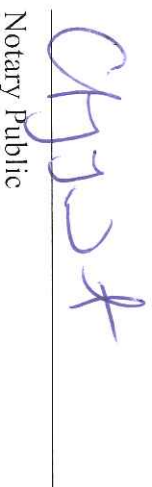
OATH

I do hereby verify that I, Dr. Alzenia Walls, am one of the named Plaintiffs in this action; that I am the president of the Sumner County Education Association; and that the facts alleged in the foregoing Complaint are true to the best of my knowledge, information, and belief.



Alzenia Walls

Sworn to and subscribed before me
this 7th day of September, 2011.


Notary Public

My commission expires 9/29/2014