

## Tribute to William Fearen 1928 - 2021

by PSBA General Counsel Michael Levin

It was my great privilege to have known and to have been mentored by Bill Fearen. Bill was General Counsel to the Pennsylvania School Boards Association from the early 1970's until his retirement from the practice of law in July 1988. Bill was lawyer's lawyer and a leader of attorneys. He was involved in the creation of the PSBA Solicitor's Association and served as president an unprecedented and unmatched three times: 1965-66, 1966-67, and 1968-69. He was president of the NSBA Council of School Attorneys and the Dauphin County Bar Association. He assisted me in the creation of the Education Law Section of the Pennsylvania Bar Association. He made close friends with several of his classmates from the University of Pennsylvania Law School who went on to become pre-eminent jurists, including the late Chief Justice Robert N.C. Nix and the late Judge N. O'Neill Jr. of the United States District Court for the Eastern District of Pennsylvania. Bill introduced me to both jurists, each of whom told me how lucky I was to be working with Bill.

Bill graduated from Bucknell University before going to law school. After law school, he clerked for Pennsylvania Supreme Court Chief Justice Horace Stern and was a founding partner of the prominent Harrisburg law firm, Cleckner & Fearen.

Bill was an excellent legal writer and wrote many outstanding briefs on behalf of PSBA to advance PSBA's judicial advocacy program. Among the many briefs filed on behalf of PSBA by Bill are the following – many of which significantly advanced the interests of PSBA's members:

1. *Shaffer v. Bd. of Sch. Directors of Albert Gallatin Area Sch. Dist.*, 730 F.2d 910 (3d Cir. 1984) (holding that federal trial court abused discretion in retaining jurisdiction in a case that did not involve a matter of federal law, only state law);
2. *Tokarcik v. Forest Hills Sch. Dist.*, 665 F.2d 443 (3d Cir. 1981) (holding that clean intermittent catheterization was a "related service" for purposes of the Individuals with Disabilities Education Act);
3. *Battle v. Com. of Pa.*, 629 F.2d 269 (3d Cir. 1980) (establishing the standards for when extended school year services are required);
4. *Rike v. Com., Sec'y of Educ.*, 508 Pa. 190, 494 A.2d 1388 (1985) (holding that disciplinary suspensions of tenured teachers could not be appealed to the Secretary of Education);
5. *Fairview Sch. Dist. v. Com., Unemployment Comp. Bd. of Review*, 499 Pa. 539, 454 A.2d 517 (1982), and *Union City Sch. Dist. v. Com., Unemployment Comp. Bd. of Review*, 499 Pa. 548, 454 A.2d 522 (1982) (holding that teachers were not entitled to advance on the salary scale after a collective bargaining agreement expired and must keep the same salary as they received before the collective bargaining agreement expired in order to maintain the status quo);
6. *Girard Sch. Dist. v. Pittenger*, 481 Pa. 91, 392 A.2d 261 (1978) (holding that the State Board of Education had the power and authority to promulgate Chapter 12 regulating student rights and responsibilities);

7. *Rylke v. Portage Area Sch. Dist.*, 473 Pa. 481, 375 A.2d 692 (1977) (holding that arbitrators could decide disputes regarding the suspensions of tenured employees);
8. *Com., Dep't of Ed. v. Jersey Shore Area Sch. Dist.*, 481 Pa. 356, 392 A.2d 1331 (1978) (establishing the standard for determining whether an employee was properly hired by a school district);
9. *Bd. of Sch. Directors of Rose Tree Media Sch. Dist. v. Feldman.*, 479 Pa. 341, 388 A.2d 686 (1978) (effected the rules as to when school board hearings might be tainted under due process);
10. *Pennsylvania Labor Relations Bd. v. State Coll. Area Sch. Dist.*, 461 Pa. 494, 337 A.2d 262 (1975) (established the standards for determining whether an item was subject to mandatory bargaining under the Public Employee Relations Act);
11. *Lindsay v. Thomas*, 77 Pa.Cmwlth. 171, 465 A.2d 122 (1983) (establishing that school districts could not be sued for money damages for violating provisions of the School Code); and
12. *Godfrey v. Penns Valley Area Sch. Dist.*, 68 Pa.Cmwlth. 166, 449 A.2d 765 (1982) (holding that the duty to realign staff as a result of certain reductions in force was limited).

The foregoing are just some of the more than 40 briefs that Bill filed on behalf of PSBA during the time that he was the association's general counsel. In addition to the judicial advocacy, Bill wrote the "It's the Law" articles in the *PSBA Bulletin* every two months for the nearly 20 years that he was general counsel. As part of his mentoring, Bill had me write some of the articles for him, but he literally left his mark on those articles as he liberally used a red pencil in liberal doses to let me know in no unmistakable terms what I needed to correct and improve. I am a better writer because of Bill.

Bill did a major rewrite of the PSBA Bylaws in the late 1970s and the structure he established in that rewrite remained a fixture of the PSBA until the association did the next restructuring of its Bylaws in 2012, more than 30 years later. He provided legal advice regarding the creation of many of the entities that are still a part of the PSBA.

Bill was honored for his work on behalf of PSBA and the PSBA Solicitors Association when he was awarded the President's Award for Distinguished Career Achievement in School Law by the Solicitors Association.

Bill had a quick wit and knew how to turn a phrase. One of his pet phrases that I particularly liked was when he would tell me that "I rarely knew what I was talking about, but that I was never in doubt." Bill liked to have fun and he was in his element when with groups. He always gathered a crowd at the PSBA Summer Conference at Bucknell. Many of the school directors would be housed in the Bucknell dorms and the singing sessions in which Bill and others engaged were legendary.

Not only was Bill a pillar to PSBA during his time serving the association, but he gave freely to the community. He served on the boards of Fort Hunter Mansion and Park and the Homeland Center, and was a member of Christ Presbyterian Church in Camp Hill, PA.

PSBA is stronger because of Bill's representation. He will be missed.