

# **Bond Case Briefs**

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## **EDUCATION FINANCE - PENNSYLVANIA**

### **U.S. ex rel. Oberg v. Pennsylvania Higher Educ. Assistance Agency**

**United States Court of Appeals, Fourth Circuit - October 21, 2015 - F.3d - 2015 WL 6163007**

Relator, on behalf of United States, brought qui tam action under False Claims Act (FCA) alleging that state-created corporate entity intended to facilitate issuance of student loans, the Pennsylvania Higher Education Assistance Agency (PHEAA), defrauded the United States Department of Education.

The Court of Appeals held that:

- State was not functionally liable for FCA claim;
- Autonomy factor weighed against finding that PHEAA was an arm of the state;
- State concern factor weighed in favor of finding that PHEAA was an arm of the state;
- Treatment under state law factor weighed in favor of finding that PHEAA was an arm of the state; and
- PHEAA was not an arm of the state.

The Pennsylvania Higher Education Assistance Agency (PHEAA) was a political subdivision of the State of Pennsylvania, rather than an arm-of-the-state, and thus was a “person” subject to liability under a False Claims Act (FCA) claim by a relator bringing a qui tam action, notwithstanding that much of its revenue was generated from out-of-state activities, and that it was treated as an arm of the state under Pennsylvania law. Pennsylvania was not liable for judgments against PHEAA, and PHEAA exercised significant autonomy from the State.