

## Volume 26, Issue 4

## **Summer 2021**

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TRI-STATE AREA School Study Council

Seeking ways to increase organizational capacity in schools through problem solving, technical service, and staff development so all students will be better prepared to make contributions to both our democratic society and the world community

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## Wishing you an excellent start to the new year!

Tri-State wishes you a successful start to the new school year. We hope that your summer has been relaxing and rejuvenating for you. If you have any questions, concerns, comments, or if we can be of any help to you, please do not hesitate to contact us.



## 2021 Workshop Calendar

Add these dates to your calendar today!

More information, venue, and registration will be sent out closer to each event.

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NCAA Update October 2021, Date to be announced

School Board and Distinguished Educator Banquet March 3, 2022

> PASA/PSBA Workshop March 4, 2022

Dr. Jean E. Winsand Workshop for Women in School Leadership April 7, 2022

Check our website for updates and new workshops!

If you have suggestions for new workshops, please feel free to contact us with your ideas!

Thank you to the law firms who contribute to *The Forum* newsletter each issue:

- Andrews & Price, Special Education Alert
- Tucker Arensberg Attorneys, Education Law Report
- Weiss Burkardt Kramer LLC, In Brief: School Law Update (Located on pages 6-7 of The Forum)

# **2021 Dr. Samuel Francis Conference**

## 2021 Dr. Samuel Francis School Law Symposium and Special Education Workshop

This year, Tri-State Area School Study Council presented the Dr. Samuel Francis School Law Symposium and Special Education Workshop free for member districts. Once again, we held the event virtually to be inline with the current pandemic guidance from governing bodies. The workshop reached **230** individuals in **84** different organizations in and around the Pittsburgh region.

Our speakers presented on topics including freedom of speech for students and school staff, special education needs for students in remote environments, and the consequences of the ruling on B.L. V. Mahanoy Area School Distirct from several perspective. The entire list of presentations can be found below.

- "School Law Update" presented by Carl Beard, Esq., Beard Legal Group PC, Altoona, PA
- "Disciplining Off-Campus Student Conduct: The Evolution of School Authority" presented by Jocelyn Kramer, Esq., Weiss Burkardt Kramer, LLC, Pittsburgh, PA and Annemarie Harr-Eagle, Esq., Weiss Burkardt Kramer, LLC, Pittsburgh, PA
- "Legal Intersections: Employee Speech, Social Media and Schools After Carr v. PennDot " –
  presented by Ira Weiss, Esq., Weiss Burkardt Kramer, LLC, Pittsburgh, PA and Megan Turnbull, Esq.,
  Weiss Burkardt Kramer, LLC, Pittsburgh, PA
- "Can't We Just Give Them a 504 Plan?" presented by Annemarie Harr-Eagle, Esq., Weiss Burkardt Kramer, LLC, Pittsburgh, PA
- **"Education Through a Trauma-Informed Lens: Legal and Practical Implications"** presented by Lynne Sherry, Esq., Weiss Burkardt Kramer, LLC, Pittsburgh, PA
- "You've Taken Your Sexual Harassment Policy to the Nines. Are you ready to do it all over again?" presented by Christina Lane, Esq., Maiello Brungo & Maiello, Pittsburgh, PA
- "Ethics: Rules of Professional Conduct for Lawyers" presented by For Attorneys seeking CLE credit\* presented by Dr. Joseph Dimperio, Esq
- Thursday, June 24, 2021
- "Special Education Discipline and Behavior Management" presented by Patricia R. Andrews, Esq., Andrews & Price, LLC, Pittsburgh, PA
- "Students' Off-Campus Speech Rights After B.L. v. Mahanoy Area School District" presented by Sara Rose, Esq., American Civil Liberties Union of Pennsylvania, Pittsburgh, PA
- "Providing FAPE Through Remote Instruction: Challenges and Solutions" presented by Rachel K. Lozosky, Esq., Peacock Keller, Washington, PA
- **"Free Speech and Politics in the Schools"** presented by Matthew Hoffman, Esq., Tucker Arensberg, Pittsburgh, PA and Christopher Voltz, Esq., Tucker Arensberg, Pittsburgh, PA
- "The IDEA State Performance Plan/Annual Performance Report(SPP/APR) and Current Topics in Special Education" – presented by Barbara Mozina, State Performance Plan/Annual Performance Report State Lead, and Carol Clancy, Director of the Bureau of Special Education
- "Collective Bargaining Basics... With or Without a Pandemic" presented by Patrick Fanelli, Esq., Fanelli Willett Law Offices, Duncansville, PA



If you are interested in viewing a specific presentation, please feel free to request access at tristate@pitt.edu. Programs will be available until mid-September 2021 . ▲

## **DEI Workshop—School Leaders Discuss Social Justice**

This workshop was created to bring together a space to learn about the various Diversity, Equity, and Inclusion initiatives taken on by different schools in the Western PA Region. Dr. Thomas Ralston hosted this event virtually, engaging the leaders in sharing their experiences and takeaways from their district's DEI implementation.

Along with the school leaders, special guests included the University of Pittsburgh's School of Education Dean Dr. Valerie Kinloch and Twitter's Vice President of Diversity and Inclusion, Candi Castleberry-Singleton. Dr. Kinloch provided perspectives from higher education working in educating leaders in DEI. Ms. Castleberry-Singleton gave valuable insights in engaging different communities effectively.

District Leaders who spoke about their districts were:

- Dr. Sean Aiken, Superintendent, Shaler Area School District
- Dr. Amy Burch, Superintendent, Brentwood Borough School District
- Dr. Lyndsey Gianella, School Psychologist, Western PA School for Blind Children

Dr. Jeff Hadley, Assistant Superintendent, Avonworth School District

- Dr. Charles Herring, Diversity, Equity and Inclusion Director, South Fayette Township School District
- Dr. Mark Holtzman, Superintendent, McKeesport Area School District
- Mr. Michael Jones, Director of Diversity, Equity & Inclusion, Allegheny Intermediate Unit
- Dr. Kenneth Lockette, Superintendent, South Fayette Township School District
- Dr. Michael Loughead, Superintendent, Hampton Township School District
- Ms. Rachelle Rectenwald, Assistant Superintendent, Western PA School for Blind Children
- Dr. Tracy Vitale, Superintendent, Seneca Valley School District
- Mr. Thomas Washington, Superintendent, Crawford Central School District

If you would like to access any of the materials from this workshop, please contact us at tristate@pitt.edu.

# LEED Workshop

## Leading for Equity and Excellence in the District

Co-Hosted by West Allegheny School District Presented by Dr. Virginia Hill, Dr. Shana Nelson, and Mr. Jason Rivers

The LEED Workshop was a hybrid, in-person and virtual, event hosted over three days. This workshop focused on providing district and school leaders with information and tools to better navigate the impact of race and racism on our society and schools. This timely workshop provided education leaders with resources to engage their schools and community in productive ways. Outlines and frameworks for effectively engaging with students, staff, and community were presented to participants for them to tailor to the needs of their organization.

The facilitators brought a wealth of experience to provide excellent education resources to participants. Dr. Virginia Hill is the founding principal of Environmental Charter High School in Pittsburgh, with almost 31 years of experience in Pennsylvania as an educator. Dr. Shana Nelson is the assistant to the superintendent for curriculum, instruction, and professional learning in the West Allegheny School District. She earned her doctorate degree in educational leadership with a focus on social justice from Duquesne University. Finally, Mr. Jason Rivers, has served the Pittsburgh Public Schools community for over 20 years, including time in the Office of Equity where he led district initiatives focused on the interruption educational inequities and the barriers they create for all students, especially students of color. Their expertise help participants as they prepared for DEI issues going into the new school year.

# **Women's Law Project**



Who's Your Sex Ed Provider?

By the Women's Law Project

*Women's Law Project* High-quality sexuality education is important for healthy childhood development. Numerous studies have linked comprehensive sex education to reduced rates of risky sexual behaviors and sexually transmitted infections. Unfortunately, the quality and availability of sex education still vary widely throughout Pennsylvania.

A study by a Pittsburgh-based advocacy organization, the Black Girls Equity Alliance (BGEA), on sexuality education in Allegheny County, Pennsylvania, found that access to sexuality education in Allegheny County schools is "inconsistent and non-systematic." The BGEA study, "Black Girls and Sexuality Education: Access, Equity, Justice," available at <u>BGEA-Report2 v4.pdf (gwensgirls.org)</u>, also sheds some light on racial disparities in school-based sex education programming.

The BGEA study notes that, of the 25 U.S. states with the highest population of Black residents, only 11 mandate sex education, and Pennsylvania is not one of them. Even among the 11 states that do require sex education, only 3 require that the information presented is medically accurate. The study found that schools in Allegheny County that do offer sexuality education make use of both internal and external providers. Teachers serve as many school districts' internal providers, while other districts rely on any of 20 external community and public health organizations to provide sex education at their schools; and some schools use both internal and external providers. Typically, external providers are employees of community-based organizations and local health departments who provide instruction at multiple school sites.

The BGEA study highlighted a couple of key trends. Internal providers at schools with higher percentages of African-American students are less likely to utilize a structured curriculum. And majority Black schools are more likely than other schools to use external providers for teaching sex ed.

In some schools in southwestern Pennsylvania, at least some sex education is being provided by external providers whose teachings may raise concerns. At an April 21, 2021 public hearing before the Pennsylvania House Health Committee, a spokesperson for the Women's Choice Network testified that its staff members are teaching sex education in fourteen Pennsylvania school districts. The Women's Choice Network is a crisis pregnancy center that is opposed to abortion and does not provide or refer for contraceptive care, and whose teachings endorse the medically unproven practice of "abortion pill reversal," which the American College of Obstetricians and Gynecologists opposes as it has not been tested for efficacy, safety, or side effects.

Many crisis pregnancy centers use a fear- and shame-based approach to sexuality education, reinforcing rigid gender roles that stigmatize LGBTQ students and promoting a double standard for male and female sexuality. The possibility that crisis pregnancy centers and other external providers whose teachings are not evidence-based are gaining access to students to spread misinformation is deeply concerning. The fact that majority Black schools are likelier than others to use external providers for sex education means that these schools have particular reason to look closely at who they are relying upon to teach this critically important material.

Continued on page 5

# **Women's Law Project**

Continued from page 4

The Black Girls Equity Alliance recommends an overall cultural shift towards a more open and tolerant view of sexuality, as well as support for families around approaching conversations about sex. Most importantly, the report called for educators to have the "comfort, skills, and knowledge to deliver appropriate sex education." Students deserve to have the benefit of a science-based sex education curriculum, as the information they will learn has the potential to affect their entire lives.

The Women's Law Project (WLP) is a nonprofit Pennsylvania-based legal advocacy organization dedicated to eliminating sex discrimination and advancing the legal and economic status of women, girls, and LGBTQ people. This column is offered for informational purposes and is not intended as legal advice.

## Tri-State Leadership Changes

With the new membership year comes a change in leadership for Tri-State. We would like to thank **Dr. Heidi Ondek** for her past two year of leadership as Tri-State President. We welcome **Dr. Michelle Miller**, Superintendent of South Fayette Township School District as President for the 2021-2023 term. Dr. Miller has most recently served as the Tri-State Vice-President. **Dr. Michael Loughead**, Superintendent of Hampton Township School District, has been elected by the Executive Committee as the incoming Vice-President for the 2021-2023 term.

In addition to the change in our presidential roles, we would also like to thank **Dr. Jill Jacoby** and **Dr. Thomas Ralston** for their years of service on our Executive Committee. Both Dr. Jacoby and Dr. Ralston have accepted positions outside of district leadership and we wish them the best in their new roles serving the education community in the region.

We want to welcome the two, new additions to our Executive Committee Team, **Dr. Todd Keruskin**, Superintendent of Elizabeth Forward School District, and **Dr. Michael Lucas**, Superintendent of Trinity Area School District.

#### 2021-2022 Tri-State Leadership Team

<u>President</u>: Michelle Miller, *South Fayette Township School District* <u>Vice President</u>: Michael Loughead, *Hampton Township School District* 

#### Allegheny County

- · Darby Copeland, Parkway West CTC
- · Todd Keruskin, Elizabeth Forward School District
- · Janell Logue-Belden, Deer Lakes School District
- · Michael Loughead\*, Hampton Township School District
- · Heidi Ondek, Western PA School for Blind Children
- · Michelle Miller\*, South Fayette Township School District
- · Robert Scherrer, Allegheny Intermediate Unit

#### Armstrong and Indiana County

· Matthew Curci, Apollo-Ridge School District

#### **Beaver County**

- · Joseph Guarino, New Brighton Area School District
- · Donna Nugent, Big Beaver Falls Area School District

#### **Butler County**

- · Brian White, Butler Area School District
- · Tracy Vitale, Seneca Valley School District

#### **Cambria County**

· David Lehman, Forest Hills School District

AREA SCHOOL STUDY COUNCIL University of Pittsburgh

#### Fayette, Washington, Greene County

· Donald Martin, Intermediate Unit 1

#### Washington County

- · Michael Daniels, Canon-McMillan School District
- · Michael Lucas, Trinity Area School District
- · Scott Martin, Bentworth School District

#### Westmoreland County

- · Timothy Gabauer, Mount Pleasant Area School District
- · Gennaro Piraino, Franklin Regional School District
- · Janet Sardon, Yough School District



# In Brief: School Law Update

WBK is 100% women-owned.

Summer 2021

## Amendments to the Sunshine Act Create Additional Requirements for Public Agencies

By Danielle Guarascio, Esq.

On June 30, 2021, Governor Wolf enacted Act 65 of 2021 amending Pennsylvania's Sunshine Act. Act 65 establishes additional notice requirements for "public agencies," such as municipalities and school districts. The requirements

supplement the public notice requirements already set forth in the Sunshine Act, which require agencies to define the date, time, and location of the meetings in the meeting notice.

Act 65 requires that, at least 24 hours in advance of a meeting, agencies publish a meeting agenda containing any matter of business that will/may be subject of deliberation or action at the meeting. If an agency has a publicly accessible website, the agenda must be posted on the website. Agencies must post the agenda at the meeting location and at the principal office of the agency. Copies of the agenda must be distributed to individuals in attendance at the meeting.

In an effort to better foster public understanding at meetings, Act 65 prohibits agencies from taking official action on any matter of agency business not listed on the agenda, except under the following circumstances:

- In the event of a real or potential emergency involving a clear and present danger to life or property;
- If the issue arose within 24 hours of the meeting and is de minimis in nature and does not involve the expenditure of funds or entering into a contract or agreement by the agency; or
- If a resident or taxpayer and the agency may only take official action to refer the matter to staff for research and inclusion on the agenda of a future meeting, or, if the matter is de minimis and does not involve the expenditure of funds or entering into a contract or agreement.

An agency may add a matter of agency business to an agenda by a majority vote of those present and voting. The reasons for the changes must be announced before any vote is taken to make a change to the agenda. The agency is required to post the amended agenda on its publicly accessible website, if available, and at its principal office location no later than the first business day following the meeting at which the agenda was changed. The meeting minutes must reflect the substance of, and the vote of any matter added to the agenda.

None of the above requirements apply for conference, work, or executive sessions. The new requirements place an additional burden on agencies to carefully prepare an agenda as to ensure that any required, potential item of consideration is included. The effect of this law will increase transparency and enforce the right of the public to be informed and present at their government's proceedings. The new provisions take effect on August 29, 2021. Public agencies should be prepared to implement these changes in time for their September 2021 public meetings. Our office is happy to assist with any questions related to the new procedures outlined in Act 65.



Danielle Guarascio

Maximizing Tax Collections

By Megan Turnbull, Esq.

Schools and municipalities rely heavily on real estate tax revenue to fund their operations and to provide critical services to their constituents.



Megan Turnbull

Beyond a current tax collection year, unpaid real estate taxes continue to be pursued through delinquent tax collection programs. In Allegheny County, these programs are most often implemented through third party collectors. In other counties, the county tax claim bureau serves as the primary collector for schools and municipalities within its footprint.

With every tax dollar in high demand, clients ask what they can do to help collection efforts and what other efforts they can support to improve their tax base health. Below are some successful strategies and considerations:

- Facilitate conversations between current tax collectors and delinquent collections/tax claim bureau to ensure timely turnover and data transfers in usable formats. This smooth transition ensures that collections don't miss a beat and keep up with your budget projections.
- Advise your delinquent tax collector of any interest in targeted collection efforts, *continued on next page*

## Back-to-School: FERPA, but Not HIPAA, Obligations

By Annemarie Harr Eagle, Esq.

As we start a new school year, it is important to be reminded of some confidentiality basics. In general, the Family Educational Rights and Privacy Act (FERPA) requires that confidential



Annemarie Harr Eagle

student records not be disclosed to third parties without the written consent of a parent or guardian. There are, however, exceptions to this requirement, including a few that are especially relevant as students return to school.

First, directory information, as defined in your annual FERPA notice, may be shared without consent. Be aware though, that the annual FERPA notice gives parents and guardians the right to opt out of this disclosure. Additionally, education records may be disclosed to school officials with a legitimate educational interest in the information, in cases of an ongoing emergency, in response to a court order or subpoena, when disclosure is in connection for financial aid for which the student has applied or received, or to guardians of a dependent student.

Importantly, education records are defined as those records that are related to the student and are maintained by the school district. Therefore, student health records are protected by FERPA and not the Health Insurance Portability and Accountability Act (HIPAA). The HIPAA Privacy Rule does not typically apply to primary and secondary schools because generally these schools are not "covered entities" as defined by HIPAA.

As a new school year is on the horizon, you are encouraged to review your annual FERPA notice to ensure that directory information is carefully defined. It is also recommended to review your record maintenance policies and protocol. In addition, should your school receive a request for records from someone other than a parent, it is recommended that you carefully review that request to prevent the inappropriate disclosure of records. And finally, if concerns regarding the vaccination status of students are being raised, do not fret over HIPAA compliance, as schools generally have no compliance obligations under HIPAA. Should you have any questions regarding FERPA, HIPAA, or general records questions, we encourage you to contact your solicitor directly or reach out to our firm.

#### Maximizing Tax Collections, continued

payment plan parameters, and expectations surrounding sheriff sales and assumpsit actions. Collaboration and communication will ensure that their efforts are in line with your expectations and needs.

- Communicate with partner municipalities and schools to identify intergovernmental cooperation opportunities. These can range from information sharing regarding successes to more formal programs to jointly collect taxes together.
- Understand property donation under 53
   P.S. Section 7108.1. This type of property
   recycling can facilitate a relatively quick
   transfer of property to a municipality or
   county. Although tax liens are removed
   through this process, mortgages are not.
- Gather resources regarding local programs like the Allegheny County Vacant Property Recovery Program, Repositories of Unsold Properties, and land banks to share and to promote responsible redevelopment in your community.

Megan Turnbull and Danielle Guarascio are available to help you develop any of these strategies or answer your tax collection questions.

In addition, WBK has welcomed T.J. Chapman as our new Tax Department Supervisor. T.J. is an experienced paralegal with over 15 years of local tax collection experience. He has been working hard with the Department to implement our new technology upgrades and keep collections efforts moving forward. We are happy to have T.J. on board!  $\blacklozenge$ 

## We're Speaking...

- Attorney Annemarie Harr Eagle recently presented at the annual Pennsylvania Association of Career and Technical Administrators (PACTA) Summer Leadership Conference held at The Penn Stater Conference Center and Hotel in State College, Pennsylvania on July 27-29, 2021. Attorney Harr provided both a general legal update, as well as Title IX updates to attendees.
- On August 3, 2021, Attorney Aimee Zundel spoke at the PBI Snapshots of Special Education Law seminar.
- On October 15, 2021, Attorney Zundel will be presenting at the Exceptional Children's Conference being held virtually.

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This issue of In Brief: School Law Update is meant to be informational and does not constitute legal advice. Should districts wish legal advice on any matter, they should contact their legal counsel or request a legal opinion from Weiss Burkardt Kramer LLC.

## **Regional Changes, Summer 2021**

Several area districts have had recent changes in their administrative teams over the past year. Congratulations to everyone in new positions and to those who have moved on to new opportunities!

#### New Appointments

Aliquippa School District, Dr. Phillip Woods, Superintendent Avonworth School District, Dr. Jeffrey Hadley, Superintendent Belle Vernon Area School District, Dr. Kenneth Williams, Superintendent Bethel Park School District, Dr. James Walsh, Superintendent Bethlehem-Center School District, Mr. Donald MacFann, Superintendent Burgettstown Area School District, Mr. Stephan Puskar, Superintendent Chartiers-Houston School District, Dr. Gary Peiffer, Superintendent Fort Cherry School District, Dr. Catherine Joyce Nicksick, Acting Superintendent Freedom Area School District, Ms. Diane Workman, Acting Superintendent Greensburg Salem School District, Dr. Ken Bissell, Acting Superintendent Ligonier Valley School District, Timothy Kantor, Superintendent Hopewell Area School District, Dr. Robert Kartychak, Acting Superintendent Kiski Area School District, Dr. Misty Slavic, Superintendent New Kensington-Arnold School District, Dr. Christopher Sefcheck, Superintendent North Allegheny School District, Dr. Melissa Friez, Superintendent Sharon City School District, Dr. William Gathers, Interim Superintendent South Fayette Township School District, Dr. Michelle Miller, Superintendent

If you know of any additional changes, please let us know at <u>tristate@pitt.edu</u> \*Some districts are in the process of filling vacancies. We apologize if we missed anyone!

## Employment Opportunities

Visit Tri-State's job board for current postings.

https://tristate.pitt.edu/jobs

#### Mask Policies by District Compiled by WTAE, Pittsburgh Action News

WTAE Pittsburgh has compiled a listing of Western PA Districts' policies on masking and learning options as student return for the 2021-2022 school year. This list is still being updated to remain current at the time of this publication. Find the full list <u>here</u>

**The Forum** is a publication of the Tri-State Area School Study Council. Your comments and suggestions of topics for future publications are always welcome. You may contact us at:

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The information in **The Forum** is for the general knowledge of the reader. For more specific information, rely on the advice of your solicitor.