



University of Pittsburgh

THE FORUM

The Tri-State Area School Study Council Newsletter

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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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A Message From Dr. Rocco

Dear Member Districts of the Tri State Area School Study Council,

I am thrilled to extend a warm welcome to each and every one of you as we embark on an exciting new school year filled with possibilities and opportunities for our member districts. It is with great pleasure that I introduce myself as the new Executive Director of the Tri State Area School Study Council. I am truly honored to be part of this esteemed organization, and I am eagerly looking forward to collaborating with all of you to continue our mission of fostering excellent professional development opportunities and celebrating excellence in education in our region.

The Tri State Area School Study Council has long been a beacon of collaboration, bringing together educators from over 68 school districts to share insights, learn from each other, and collectively elevate the quality of education in our region. As we navigate the ever-evolving landscape of education, our commitment to empowering educators and improving student outcomes remains steadfast, and are relationship with the University of Pittsburgh is critical to our success.

I am deeply passionate about education and have spent over 40 years in public education as teacher, principal, and superintendent. My goal as the new Executive Director is to build upon the strong foundation laid by Dr. Diane Kirk. She was an amazing leader of Tri-State, and I have some very large shoes to fill. I promise to work closely with our dedicated members and university partners to offer valuable, impactful professional development activities that will enrich your teaching practices and inspire your students.

As we begin this new school year together, I encourage you to share your insights, ideas, and aspirations. Your contributions are invaluable, and together, we can shape the future of education in our region.

Please review some of the upcoming events we have outlined in the newsletter where we will have the opportunity to connect, share, and learn together.

Once again, welcome to an inspiring year of growth and transformation. I am honored to serve as your Executive Director and am looking forward to getting to know each of you better.

If you have any questions, suggestions, or thoughts, please do not hesitate to reach out to me at brocco@pitt.edu.

Here's to a successful and fulfilling school year ahead!

Warm regards,
Bart Rocco, Ed.D
Executive Director

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*)

2023 Dr. Samuel Francis School Law Symposium and Special Education Workshop: In Review

On June 21st, Tri-State welcomed well over 100 attendees to this year's Dr. Samuel Francis School Law Symposium and Special Education Workshop. Held at the Allegheny Intermediate Unit's incredible facilities, this event was also broadcast to dozens of others via live-stream at IU1 in Coal Center, IU27 in Monaca, and IU7 in Greensburg.

Tri-State would like to extend our sincere appreciation to our immensely talented presenters. This year's seminars included:

- ◆ Lynne Sherry & Rebecca Heaton-Hall: "Case File: A Year In Special Education Case Review, and What It Means For You!"
- ◆ Carl Beard: "Social Media – What Every Administrator Needs to Know"
- ◆ Barbara Mozina & Amy Pastorak: "Making Connections Across the State Performance Plan Indicators, Equity in IDEA, Public Reporting Requirements of IDEA, and Bureau of Special Education Updates"
- ◆ Christina Lane: "Sunshine on my mind and Title IX"
- ◆ Patricia Andrews: "Should You Grant and IEE Request?"
- ◆ Jocelyn Kramer: "The Ongoing Evolution of Constitutional Rights in Our Schools"
- ◆ Jeni Hergenreder: "Educating Students with Mental Health Disabilities and Avoiding Discriminatory Use of Discipline"
- ◆ Megan Turnbull: "AI, Algorithms and Tech Intersections With Education"
- ◆ Matthew Hoffman & Chris Voltz: "Gender Identity in Public Schools"
- ◆ Patrick Fanelli: "Whose Job Is It Anyway?"
- ◆ Jessica Crown: "Navigating Book Banning"
- ◆ Joseph Dimperio: "Ethics: Rules of Professional Conduct for Lawyers - 2023"



The presentations touched on a variety of incredibly important topics for districts across the region, from Title IX to gender identity to artificial intelligence. Participants were also able to pursue CLE credits. Altogether, folks left feeling more informed and better able to address the needs they face in their districts.

In addition to our presenters, Tri-State would like to extend a huge thank you to the staff at the AIU and Executive Director Dr. Robert Scherrer for their time and efforts to make this program a success. Similarly, we would like to thank Dr. Jason Conway and staff at IU7, Dr. Donald Martin and staff at IU1, and Dr. Eric Rosendale and staff at IU27. We are looking forward to seeing everyone again for the 2024 edition, which will held on June 20th at the University of Pittsburgh!



Green Building Alliance



GBA's Upcoming GPRO Training for Facility Professionals

For those interested in maximizing their potential as a sustainability professional, GPRO is a certificate program focused on practical and affordable operations and maintenance strategies for preK-12 facility teams. Run through the Urban Green Council, the training benefits anyone who builds, renovates, and maintains buildings. GBA will be offering the training in 3 sessions in 2023 and 2024. Thanks to a recent grant, this training will be offered for free for any facility professionals working for school districts in energy justice areas of Western Pennsylvania. The course itself is two days long and focuses on preventative maintenance for any building type, specifically schools:

December 7-8, 2023, from 9 am – 1:30 pm via Zoom

April 18-19, 2024, from 9 am – 3 pm in person at GBA's office

August 7-8, 2024, from 9 am – 3 pm in person at GBA's office

This is an exciting opportunity for you and your team and a great step towards creating sustainable buildings for students to live and learn in! If you or anybody in your facilities team are interested in becoming a GPRO certified, sustainably informed building professional, contact Leslie Montgomery at lesliem@gba.org or Chris Cieslak at chrisc@gba.org to learn whether you qualify for free training. ▲

2023 –2024 Tri-State Annual Events

NCAA Update

October 11, 2023

Distinguished Educator and School Board Banquet

March 21, 2024

PASA/PSBA Worskshop

March 22, 2024

Dr. Jean E. Winsand Workshop for Women in School Leadership

April 11, 2024

Dr. Samuel Francis School Law Symposium and

Special Education Workshop

June 20, 2024

Stay tuned for announcements of other workshops throughout the year!

New Guidance on the Horizon

by Nicole Williams, Esq.

Both the U.S. Department of Education (USDOE) and the Pennsylvania Human Relations Commission (PHRC) have recently introduced new guidance that will inform school district policy and procedures moving forward.



Nicole Williams

In June 2022, USDOE released new proposed Title IX regulations for public comment. These proposed regulations make changes to existing definitions and propose new definitions, overhaul the current mandated grievance procedures to no longer require that different individuals take on the roles of Title IX Coordinator, investigator, and decision-maker, that evidence be provided to all parties, or that investigation reports contain certain required elements, among other changes, and clarify that Title IX covers pregnancy or related conditions and family status, as well as sex discrimination based on sex stereotypes, sex characteristics, sexual orientation, and gender identity for students and employees.

The final regulations were expected to be released in May of 2023, however, due to the overwhelming number of public comments received, the USDOE advised that it would be taking additional time to properly review and consider all comments. We now expect the final rule to be released by the USDOE in October 2023.

A separate rulemaking concerning Title IX and athletics was published by the USDOE in April 2023. It proposes that schools will not be permitted to have a categorical ban against students participating on a sports team consistent with their gender identity. Rather, if a school adopts a policy that would limit or deny a student's ability to participate on a team consistent with their gender identity, that policy must be substantially related to the achievement of an important educational objective such as fairness in competition or prevention of a sports-related injury and must minimize

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Back-to-School: Special Education Reminders

by Lynne Sherry, Esq.

As school districts prepare to open the doors to students in the fall, there are a few reminders – taken from recent Office for Dispute Resolution (ODR) Hearing Officer decisions – that will help districts ensure that they are prepared to meet student needs and remain compliant with the Individuals with Disabilities in Education Act (IDEA) and Chapter 14.



Lynne Sherry

Individualized Education Program (IEP) Implementation – On Day One:

“At the beginning of each school year, each public agency must have in effect, for each child with a disability within its jurisdiction, an IEP, as defined in 34 CFR 300.320.” 34 CFR 300.323(a). An IEP must be in effect at the beginning of each school year, and the failure to have an IEP in effect on day one may result in a denial of FAPE. If an IEP has not been finalized by the end of the prior year, the IEP team must meet prior to day one in order to ensure that the student is not deprived of educational benefit. Parents, as part of the IEP team, must be involved in this process in order to provide the IDEA's mandate of meaningful parental participation. See *J.C. v. Upper Merion Area School District*, 26193-21-22 (SEA PA 08.16.2022) (McElligott, M.) (finding that because parents were not able to concretely understand what the District was proposing *before the beginning of the school year*, the District deprived the student of FAPE and tuition reimbursement was awarded for the student's private placement).

As an additional reminder, districts should ensure that all staff (special education teachers, general education teachers, related service providers, building staff, substitute teachers, etc.) are aware of the contents of a student's IEP and their responsibilities in implementing the IEP with fidelity. Districts should ensure that when students are transitioning between buildings within a district that the IEP moves with the student.

Child Find – Red Flags:

The IDEA includes a Child Find mandate, which requires districts to affirmatively “identify, locate and evaluate all children with disabilities residing within the jurisdiction who are in need of special education and related services.”

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Special Education Reminders, *continued*

34 CFR 300.111 (c). This includes children suspected of being children with disabilities and in need of special education, even if they are advancing from grade to grade, and highly mobile children (including migrant children). In addition to districts' obligations to post "general public notice obligations" regarding Child Find, there are several areas of Child Find liability most frequently litigated. Some of these areas include: excessive absences/truancy related to disability; behavioral concerns (especially those leading to out of school discipline and/or frequent requests for parents to "pick-up" their student from school); multiple hospitalizations; an ineffective 504 plan to address student needs; severe or persistent behavioral struggles without response to interventions. See *J.S. v. Lower Merion School District*, 26336-21-22 (SEA PA 08.26.2022) (Ford, B.) (Finding that a student's worsening behaviors and attendance, coupled with a teacher's warning to administrators that the student was in need of help, amounted to a Child Find violation due to the District's failure to reassess for special education eligibility).

Meaningful Parental Participation

Per the IDEA, parents are mandatory members of the IEP team, and districts must ensure that parent(s) of a student with a disability are present at each IEP meeting or are afforded the opportunity to participate in an IEP meeting. 34 CFR 300.321 (a)(1); 34 CFR 300.322 (a). Effective communication with parents/guardians can often make or break a special education case. In cases where there is open communication and a forum for meaningful parental participation – as mandated by the IDEA – districts are often less likely to face adversarial litigation. Districts are encouraged to work with families to determine a means for open communication, such as a home-school communication log, or an agreed upon frequency for email updates regarding a student's progress. In some cases, the development of a communication plan may be appropriate or necessary to set reasonable limits on communication while maintaining participation rights under the IDEA. Meaningful participation also takes into account a parent/guardian's ability to understand and participate in development of an appropriate IEP. Where parents/guardians are denied this opportunity, liability may ensue. See *S.F. V. East Allegheny School District*, 27339-22-23 (SEA PA 04.18.2023) (McElligott, M.) (finding that because the student's IEP goals did not contain baseline data or a mechanism to measure progress, and because changes were made to the IEP without parental input, parents were prevented from meaningful participation, and compensatory education was awarded).

Attorneys at WBK are available to consult with school districts on issues surrounding IEP implementation, Child Find, and meaningful participation, among other special education topics that may arise as the school year begins. WBK will also be circulating a comprehensive review of ODR cases from the 2022-23 school year to help inform practice in all areas of special education law. ♦

New Guidance on the Horizon, *continued*

harms to the student whose ability to participate is being limited or denied. The USDOE's Notice of Proposed Rulemaking suggests that this standard would be more difficult to meet at the elementary level or for club or no-cut teams, but may be more likely to be met on competitive high school or college teams. At this time, the USDOE anticipates it will also release this final rule in October 2023.

Additionally, the PHRC established new regulations that expand the definition of sex to include pregnancy status, childbirth status, breastfeeding status, gender identity or expression, and sexual orientation. The new regulations also contain expanded definitions of religious creed and race. These new definitions apply to both the Pennsylvania Human Relations Act (PHRA) and the Fair Educational Opportunities Act. The new regulations were published on June 17, 2023 and are effective beginning August 16, 2023.

Schools will need to consider the new PHRC regulations when drafting or revising policies and conducting non-discrimination investigations. Schools will also need to stay abreast of the Title IX developments to revise and develop policies, as necessary, and conduct investigations, consistent with the new requirements of final regulations. ♦

We're Speaking

- Attorney Annemarie Harr Eagle recently presented at the 2023 Pennsylvania Association of Career and Technical Administrators (PACTA) Summer Leadership Conference held on July 25-27th at the Penn Stater Hotel & Conference Center in State College, PA. Attorney Harr Eagle provided a school law update to attendees, as well as a presentation on Title IX.

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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 Superintendent Changes

Several area districts have experienced 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:

IU7

- Belle Vernon, In Process
- Southmoreland, **Dr. Jason Boone**

AIU3

- Clairton City, **Dr. Tamara Allen-Thomas**
- East Allegheny, **Mr. Joseph DiLucente** (acting)
 - Elizabeth Forward, **Mr. Keith Konyk**
 - McKeesport Area, **Dr. Tia Wanzo**
 - Mt. Lebanon, **Dr. Melissa Friez**
 - North Allegheny, **Dr. Brendan Hyland**
 - Plum Borough, **Dr. Rick Walsh**
 - South Allegheny, **Dr. David McDonald**
 - West Jefferson Hills, **Dr. Janet Sardon**

Congratulations to resignations and/or retirees:

- Belle Vernon Area, **Dr. Kenneth Williams**
- West Jefferson Hills, **Dr. Michael Ghilani**
- Mt. Lebanon, **Dr. Timothy Steinhauer**
- Elizabeth Forward, **Dr. Todd Keruskin**

If you know of any additional changes, please let us know at tristate@pitt.edu

**Some districts are in the process of filling vacancies. We apologize if we missed anyone!*

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.