



THE FORUM

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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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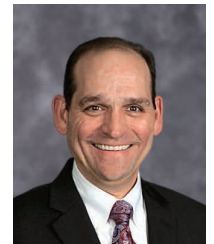
Tri-State Workshops

Banquet Honorees Announced

The Tri-State Area School Study Council's School Board and Distinguished Educator Banquet is an annual opportunity to recognize outstanding achievement in education through the presentation of both the Distinguished Educator Award and the D. Richard Wynn Distinguished School Board Award. In addition, the banquet is a great time for all who attend and a wonderful networking opportunity for district administrators and Board members. This year's banquet will be held at the Edgewood Country Club on Thursday, March 26.

Distinguished Educator Award

Since 1981, Tri-State has [annually recognized](#) outstanding administrators, retired educators, and University faculty for their achievements and contributions to education with the Distinguished Educator Award. This year's honoree, selected from a pool of notable candidates, is **Elizabeth Forward School District Superintendent Dr. Bart Rocco**. According to nominators Dr. Todd Keruskin, Elizabeth Forward Assistant Superintendent, and Dr. Jerry Longo, Associate Professor and previous Distinguished Educator, Dr. Rocco is a "gentleman and a builder of dreams."



Dr. Bart Rocco

D. Richard Wynn Distinguished School Board Award

The D. Richard Wynn Award was commissioned by the Executive Committee during the 1988-1989 school year to symbolize the contributions of Dr. Richard Wynn, former Professor of Education at the University of Pittsburgh and Executive Secretary of Tri-State from 1974 to 1980. In order to be considered for the award, school organizations must demonstrate exemplary practices by school boards and school district personnel in addressing important issues that reflect directly on improved schooling for students.

Two boards were selected to receive the 2014-2015 D. Richard Wynn Award: **Conemaugh Valley School District** and **Yough School District**.

The Conemaugh Valley School District Board of Directors were selected for their tireless efforts to improve schooling for all students. Despite declining population, economic hardship, and social stresses, they have made a commitment to improve the culture of the district by creating fiscal stability, investing in technology and facilities, and working to expanding curriculum options.

The Yough School District Board of Education were selected for their notable contributions to education in their community. They worked collaboratively to support the students of the Yough School District not only through a strong commitment to academics but by seeking to create well-rounded students through support of the fine arts, extracurricular activities and athletics, and career and technical education programs.

We look forward to celebrating the accomplishments of Dr. Rocco and both Boards on March 26. Nominations for the 2016 Awards will be available in December 2015. ♦

Tri-State Workshops

Institute for Women in School Leadership

Recognizing your Value and Influence as a Leader: Managing the Work/Life Balance

Register by April 1st

The 13th Annual Dr. Jean E. Winsand Institute for Women in School Leadership will be held on **April 8, 2015**, at the Edgewood Country Club. The program, named in memory of women's rights activist and University of Pittsburgh Professor Emeritus Jean Winsand, will focus on successfully navigating the work/life balance.

The workshop will open with an update from the Pennsylvania Department of Education by **Policy Director Beth Olanoff**. Ms. Olanoff will discuss Governor Wolf's education plan.

A panel of area superintendents, moderated by Quaker Valley Superintendent **Dr. Heidi Ondek**, titled "Carrying Many Roles: How Do I Do It All with a Full-Time Audience," will follow. The panel will feature: **Tammy Adams** (South Side Area), **Dr. Amy Burch** (Brentwood Borough), **Dr. Jill Jacoby** (Fort Cherry), and **Dr. Bille Rondinelli** (South Fayette Township).

Wrapping up the morning are two presentations on negotiations and contracts—one by attorney **Megan Ott** (Goehring, Rutter & Boehm) and the other by Seneca Valley Superintendent **Dr. Tracy Vitale**. Megan Ott will focus on the law and process of administrative contracts and Dr. Vitale will discuss how to successfully negotiate with tact and professionalism.

During lunch, we will recognize and celebrate the accomplishments of an area leader with the Distinguished Female Educator Award, to be announced in late March.

The day's final presentation will be by KDKA's Kristine Sorensen. She will share her story of how she moved up through the television news industry, moving from city to city, making choices for both jobs and family.

Visit [our website](#) to register by April 1. ♦



Attendees at the 2014 workshop.

Enhancing School Governance and Management



Jim Buckheit, PASA

Tri-State will once again host the directors of the Pennsylvania School Boards Association and the Pennsylvania Association of School Administrators on **March 27th** for the annual "Enhancing School Governance and Management Workshop."



Nathan Mains, PSBA

The speakers will address key issues at the state level, including Governor Wolf's budget and plan for education, as well as how an effective working relationship between Boards and administrators results in improved student achievement.

For those who are unable to attend, presentations will be available via email—send a message to tristate@pitt.edu to receive them after March 30. ♦

15th Annual Dr. Samuel Francis School Law Symposium and Special Education Workshop

Wednesday, June 17, 2015

**The University Club
123 University Place
Pittsburgh, PA 15260**

Featuring two concurrent presentation tracts focused on School Law and Special Education

[Visit our website for information and updates](#)

Green & Healthy Schools Academy Updates

Planning a New Building or Major Renovation? Go Healthy and High-Performing!

If you have a significant capital program coming up over the next couple of years, let us help you get the most out of the dollars you are putting into this major investment that usually just comes along once in a generation for any given school. The decisions you make now will impact many aspects of your school for years and decades to come: operating costs, environmental effects, student and staff health, and students' ability to succeed and thrive in the 21st century economy and society. Here are a few points to consider:

Start Early – healthy and high-performance standards need to be articulated and incorporated in the request for proposals (RFP) for design consultants. The sooner you start thinking about it, the less it will cost compared to later in the design or construction process.

Integrate – implement an integrative design process (IDP) that makes sustainability a central part of the project from beginning to end. This means, for example, that a construction manager should be available and active during the design process to control costs and ensure constructability. A separate consultant may be required to lead the IDP.

Collaborate – incorporate a wide spectrum of stakeholders and offer opportunities for meaningful input from staff, students, parents, and community members.

Think Long-Term – Keep in mind that a building's construction phase represents only 20% of its total cost over its lifetime. Think beyond just what is in the capital budget and how design decisions will have a lasting effect on operating budgets and line items such as utilities, maintenance, and housekeeping.

Please contact us if you would like assistance to understand this type of opportunity, what pertinent questions to ask, and how to stay on track during design and construction. We welcome the chance to help make your school the best it can be with the resources you have available!

Andrew Ellsworth, andrew@gbapgh.org, (412) 414-9293;
Jenna Cramer, jennac@gbapgh.org, (412) 638-5689.

Green & High-Performance Cleaning: Work Smarter, Not Harder

When it comes to creating healthy and high-performing schools, green cleaning is a no-brainer. If established and managed correctly, such a program can save schools time and money, improve the health of students and staff, and reduce the risk of injury to custodians. In this age of ever-shrinking financial resources, schools need to maximize their custodial budgets and that's why we emphasize the "high-performance" aspect of green cleaning—because it allows for cleaner schools that are safer for the entire community while operating within the constraints of existing staff and budgets.

Green cleaning consists of four main components:

1. Products – cleaning chemicals should be third-party-certified through Green Seal or EcoLogo, and general disinfectants should be hydrogen peroxide-based.
2. Equipment – switch to microfiber mops and cloths, which are far superior to cotton for dirt removal; microfiber also requires the use of significantly less water and cleaning chemicals and can be washed and reused 50-100 times.
3. Processes – ensure that cleaning products are correctly diluted (using dilution stations), disinfectants are used correctly with appropriate dwell times, and high-traffic areas are cleaned thoroughly to prevent migration of dirt and contaminants into other parts of the building.
4. Training & Communications – confirm that custodians understand the program and its benefits and how to correctly utilize products and equipment; communicate the new processes to staff, students, and parents, underscoring that a clean, green school is a team effort.

If you have not already done so, we strongly urge you to give green cleaning a closer look. We know of at least 10 districts in Southwestern Pennsylvania that have implemented such a program at some level and most if not all will say they are very pleased with its effectiveness and financial impact.

In many ways, the Green & Healthy Schools Academy can help your district realize the opportunity that green and high-performance cleaning can bring. Please contact us to find out how you can take advantage of our pro bono assistance.

South Bronx Hero Stephen Ritz Visits Pittsburgh Langley K-8



Langley students and teachers working in the greenhouse alongside Stephen Ritz.

Students and staff at Pittsburgh Langley K-8 in Sheraden had a special opportunity to spend time with Stephen Ritz of the Green Bronx Machine while he was in town to participate in Green Building Alliance's Inspire Speakers Series. Ritz is world-renowned for his energy and infectious enthusiasm, which he has channeled to help students learn about, grow, harvest, and sell food at New York PS 55 in the South Bronx, one of the nation's most challenged neighborhoods. He uses food and food production as a means for students to acquire useful skills, improve attendance and test scores, build confidence, find gainful employment, and improve their health and that of their family, as well as transform the local community into one that is resilient, beautiful, and economically productive. Ritz is a two-time TEDxManhattan presenter, an occasional visitor to the White House, and a Global Teacher Award finalist—so you can imagine the excitement of the Langley community at having him come work with the students!

Ritz has a special place in his heart for Langley, where a renovated greenhouse, courtyard garden, and array of partnerships could be the makings of a game-changing program. While there, he worked alongside the school's seventh-grade greenhouse ambassadors to harvest microgreens and plant seeds that will grow in the greenhouse until they are ready to be planted in the garden.

Students and staff were able to experience firsthand the passion and inspiration that Ritz brings to schools through food.

The following day, the Green & Healthy Schools Academy held its School Sustainability Culture Workshop at Langley as well, delving into the topic of "Food as Opportunity" to teach, improve health, and revitalize communities. We hope to expand our partnership with Ritz and the Green Bronx Machine and make his amazing ideas available to schools throughout the region.

ESEA-Reauthorization Op-Ed

The federal government can provide incentives to merge school districts

By [Dr. Sean Kelly](#), Assistant Professor in Department of Administrative and Policy Studies at the University of Pittsburgh

No Child Left Behind got one thing right: It implemented standards of equality into our educational system. Indeed, the main problem with the American educational system prior to the 2002 implementation of the Bush administration's No Child Left Behind legislation was not the average level of achievement; it was the inequality within the system.

Far too many students were leaving school unprepared for productive and fulfilling lives. No Child Left Behind attacked this problem head on, holding schools accountable for the first time ever for the achievement of all their students.

After No Child Left Behind, it was no longer enough to send a handful of middle-class students off to elite colleges. Schools had to make sure poor students were proficient, too. Yet, in the 10-plus years since, we've learned that accountability alone is not enough to produce the kind of change envisioned by No Child Left Behind.

American education under No Child Left Behind legislation has reinforced a conclusion from the earliest era of its predecessor, the Elementary and Secondary Education Act of 1965, when social scientists first began to study academic achievement on a national scale: Educational inequality stems not primarily from the poor job performance of educators but from the social problems associated with concentrated poverty.

As the Obama administration and Congress work to draw up a new version of the Elementary and Secondary Education Act this year, they must find a way to affect the social context in which students learn. They could do that by incentivizing local school district mergers that would create integrated school systems with the social and financial resources to break the cycle of poverty.

It is no secret that the most troubled school districts are also the most segregated. In recent years, the achievement gap between the rich and poor has widened. At the same time, the segregation of students across school district boundaries has increased, leaving poor and minority students across the country to attend schools comprised largely of other poor students. In the 2000s, as the tax base in high-poverty districts eroded, disparities in instructional expenditures between districts increased. The immense challenges faced by segregated, high-poverty school districts are evident in Chicago, Cleveland, Detroit, Newark and other city school systems surrounded by the separate school districts of middle-class bedroom communities.

In contrast, consider an integrated school system like the one in Wake County, North Carolina, which includes the city of Raleigh. In the early 1970s, a coalition of local leaders began the process of merging the county and city school systems serving Wake County. The result was an

integrated school system with an innovative school assignment system designed to ensure a balance of poor and non-poor students in each school. In Raleigh, students and teachers had no incentive to avoid particular schools, and every school had the financial and social resources to successfully implement school reform programs coordinated by the district. The story of Wake County and its exceptional school system are chronicled in Gerald Grant's book "Hope and Despair in the American City: Why There Are No Bad Schools in Raleigh."

Unfortunately, since the 1974 Supreme Court decision in *Milliken v. Bradley* — a landmark case that ended planned desegregation busing in Detroit's public school system — students in high-poverty school districts have had little legal recourse when segregation is caused by the existence of district boundaries. Any district mergers must, except in rare exceptions, occur on a voluntary basis. While the federal government cannot mandate such reform, it can incentivize it, as it has with the U.S. Department of Education's Race to the Top grant program that provides funding to states developing innovative approaches to improving teacher accountability and educational performance among disadvantaged students. The grants have shown just how powerful a relatively small federal incentive program can be in driving educational reform.

The next reauthorization of the Elementary and Secondary Education Act should include an incentive program to encourage voluntary school mergers across district boundaries. In some states that have many hundreds of school districts, like Pennsylvania and Michigan, district mergers are not only a question of school excellence and equity, but also of administrative efficiency and economies of scale.

For small, bedroom-community districts, a merger might offer access to a more flexible and comprehensive school curriculum, better services for exceptional children, and opportunities for professional development and career advancement for teachers. Merging with a central city district is also a smart long-term strategy in anticipation of shifting residential priorities; suburban townships are likely to become less attractive as the housing stock ages.

I urge legislators to work with experts in educational administration, school reform and the politics of education to craft a program of incentives that will begin to generate real educational reform in the school systems that need it the most. ♦

Published March 15, 2015, in the [Pittsburgh Post Gazette](#)

**Dr. Kelly welcomes any feedback or comments—
contact him via email at spkelly@pitt.edu**

Education News Round-Up

[The Chief Academic Officer: A Special Report](#) *Education Week*

This special report, “The Chief Academic Officer’s Evolving Role: Powering Big-Picture Learning Goals,” examines the challenges CAOs are facing in school districts across the country and how they are working to improve academics in the age of common standards and digital teaching and learning. It features findings from an exclusive survey of district leaders.

[Ditching The Common Core Brings A Big Test For Indiana](#) *via NPR*

It all started a year ago, when the state dropped — and hastily replaced — the Common Core State Standards. It was the [first of three states to drop the Core](#) after previously signing on to the benchmarks in the summer of 2010.

[Most-Read AERA Journal Articles of 2014](#) *American Educational Research Association*

Research on value-added models, community colleges, instructional practices, MOOCs, and more appeared in the 10 most popular journal articles published by American Educational Research Association in 2014. Based on the number of times they were accessed online, the following were the most popular AERA research articles published in 2014.

Of particular interest: [Instructional Alignment as a Measure of Teaching Quality](#) & [Teacher Evaluation Policy and Conflicting Theories of Motivation](#)

Budget Information & Resources

[PDE: Budget Fast Facts](#) (PDF link)

[PDE’s Schools That Teach Website](#)

[PSBA Special Report on Gov. Wolf’s 2015-16 State Budget Proposal](#)

[Education Policy and Leadership Center Notebook](#) (PDF link)

[Pennsylvania Budget and Policy Center: Education Facts](#)

[Gov. Wolf’s Cyber Charter Reform Plan Would Help Public School Students](#) *Third and State*

[Cost of Education: Teachers look for solutions to PA education funding crisis](#)
The Express-Times

“Education is the lynchpin for achieving the goals set forth in Governor Wolf’s proposal for economic development and creating good-paying, middle class jobs. Our state must adequately fund education and ensure taxpayer dollars are equitably distributed to strengthen our schools’ ability to prepare students for careers throughout Pennsylvania. Today’s young people are tomorrow’s skilled workforce if we invest in their futures.” – Jim Buckheit, PASA Executive Director (from a [joint statement](#) issued by five education organizations, 3/3/15)

“Given the extraordinary level of spending increases proposed in the Governor’s overall plan, we encourage you to take a conservative approach to your state revenue estimates and advise against adjusting your school district’s preliminary budget to reflect his education proposal.” – from a [letter to superintendents](#) from Senate Republican leaders (3/6/15)

Statutory Considerations in School District Construction Contracts

by James P. McGraw, III, Esq.

From tremendous financial commitments and uncertainty surrounding the status of state reimbursement funds to the potential for costly litigation, large-scale school construction projects have presented a myriad of issues to school boards and administrators. School districts that are considering or are experiencing construction projects must be cognizant of potential pitfalls at every step of the process. Here are some important statutory considerations:



James P. McGraw, III

24 P.S. § 5-508: Majority Vote Required

According to the Pennsylvania School Code, a majority of a district's school board members must approve any contract over \$100 and the board president and secretary must sign these contracts. All school construction contracts fall under these requirements. This is true even in instances in which board

This list is not exhaustive – even the most diligent school district cannot fully inoculate itself against potential delays, disputes and unanticipated increases in expenses.

members or administrators claim they can "speak for" a majority of the board. School districts must not play fast and loose with this mandate, as they may find themselves seeking to enforce an invalid agreement against a contractor.

It is important to remember this provision also relates to modifications of an original contract. Verbal agreements or representations by board members or administrators cannot alter the terms of a contract, even if the original agreement has been approved by the school board.

24 P.S. § 7-751: Competitive Bidding

Virtually all construction contracts will have more than \$18,500 in total costs; therefore, they must be subjected to a competitive bidding process in which districts publicly advertise and request competitive bids. Keep in mind, school districts cannot evade competitive bidding by advertising for bids in piecemeal fashion. Contracts must be awarded to the lowest responsible and responsive bidder.

Periodically, school districts have awarded to someone other than the lowest bidder because the lowest bidder was deemed unresponsive. It is far less common for a bid to be rejected based upon lack of responsibility, as it is much more difficult to prove. Pennsylvania courts have occasionally authorized school districts to engage in prequalification processes. However, the courts have stated prequalification must apply equally to all bidders in order to avoid favoritism.

71 P.S. § 1618: Separations Act

There was a time when the Mandate Waiver Program allowed school construction projects to adopt a "single-prime" model (i.e., a model in which a general contractor subcontracts work). Now, however, school districts are required to engage in separate bidding and prime contract awards for plumbing, heating, electrical and ventilating projects costing more than \$4,000.

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Discipline of Special Education Students: Out-of-School Suspensions

by Rebecca Heaton Hall, Esq.

The rules and procedures regarding the discipline of students with disabilities differ from those relating to the discipline of students without disabilities.



Rebecca Heaton Hall

In general, a special education student may be removed from school for 10 or fewer days, but total removals for a school year may not exceed 15 days. In the case of a student with an intellectual disability (mental retardation), any removal from school constitutes a change in placement. In-school suspensions are governed by different standards and have no set length of time before a change in placement is necessary.

Under the Individuals with Disabilities Education Act (IDEA), short-term removals of special education students should generally follow a 10-day rule. This rule indicates that any special education student who violates a code of student conduct may be removed to an appropriate interim alternative educational setting, another setting, or receive a suspension for no more than 10 consecutive school days. If the removals are not consecutive but constitute a pattern of removals for more than 10 days in a school year, a change in placement will occur.

A student may be removed up to 10 days at a time even if the behavior is related to the student's disability. However, if the student receives a removal of more than 10 days, the District must conduct a manifestation

continued on next page

Statutory Considerations in Construction Contracts, *continued*

24 P. S. § 1-111: Criminal History / Clearances

The recently enhanced criminal history clearance requirements for school employees also apply to prospective vendors and independent contractors seeking to work in public and private schools, intermediate units and vocational-technical schools. All vendors, contractors and their employees must submit to criminal background checks, unless they will not have direct contact with children. Prospective contractors must produce the following records for their employees prior to employment and administrators are required to keep a copy on file.

- Employees' criminal history records, which are less than a year old, from the Pennsylvania State Police;
- Employees' federal criminal history records, which are also less than a year old and are obtained by transmitting employees' fingerprints to the FBI; and
- Child abuse clearance forms from the Department of Public Welfare.

Depending on the information found in the reports, prospective employees can be permanently disqualified from working at schools or be barred for periods of time. Districts should spot-check contractors and their employees to ensure ongoing compliance with the clearance requirements.

24 P. S. § 7-756: Bonds for Payment of Labor, Materials, etc.

A contractor working for a school district must post a bond for 50% to 100% of the construction costs, to be determined by the district, to ensure prompt payment for all materials, labor and machinery used during the project. Any interested party who has furnished material or performed labor may sue on the bond and the school district will not be liable for any expenses of suit.

Out-of-School Suspensions, *continued*

determination; provide educational services to the student in another setting that permits progress on IEP goals; and provide a functional behavioral assessment and services designed to address the behavior so it does not occur again. If a manifestation determination review concludes that the behaviors causing the removal were a manifestation of the student's disability, the student should be immediately placed in his or her original placement.

In a limited number of circumstances, a school district may move a special education student to an interim alternative educational setting for up to 45 school days before considering whether the behaviors causing the removal were manifestations of the student's disability. A 45 day placement without a manifestation determination may occur if the following events occur on school premises or at a school function:

- The student carries or possesses a weapon at school;
- The student knowingly possesses or uses illegal drugs, or sells or solicits the sale of a controlled substance; and
- The student has inflicted serious bodily injury upon another person. ♦

Planning and Construction Workbook: "PlanCon"

School districts around the Commonwealth are in limbo regarding state reimbursement for portions of their school construction costs. Districts are required to go through a design and planning process, known as PlanCon, if they intend to seek reimbursement. However, a moratorium was placed on PlanCon in October 2012; as a result, 350 approved construction projects were awaiting an estimated \$1.2 billion in PlanCon reimbursements. The moratorium was lifted with the passage of the most recent state budget. However, it remains unclear how much money will be allocated for PlanCon reimbursements and how this money will be distributed.

School districts seeking reimbursements should still follow PlanCon, a process typically spearheaded by project architects and/or design professionals.

PlanCon restricts parties from signing construction contracts until all permits, including environmental permits, are secured and the parties have received certification of those secured permits. Failure to do so can void a district's entitlement to PlanCon reimbursement.

62. P.S. § 3901 et seq.: Prompt Payment Act

There are occasions in which a district may believe a contractor did not follow the contract and may consider withholding payments on a "good faith basis." However, a district cannot use this tactic over minor disputes. If it is determined the school district did not act in good faith, contractors may recover interest damages and attorney's fees under the Prompt Payment Act. Districts should confer with their solicitor before withholding a contractor's payment.

This list is not exhaustive – even the most diligent school district cannot fully inoculate itself against potential delays, disputes and unanticipated increases in expenses. The help of legal counsel, designers and construction managers at all phases of the project will ensure districts' construction plans run smoothly and are on budget. ♦

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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.

Tri-State Area School Study Council Calendar of Events

67th Annual School Board and Distinguished Educator Banquet
March 26, 2015, Edgewood Country Club

Enhancing School Governance and Management
March 27, 2015, Edgewood Country Club

13th Annual Dr. Jean E. Winsand School Leadership Institute for Women in School Leadership
April 8, 2015, Edgewood Country Club

18th Annual Dr. Samuel Francis School Law Symposium and Special Education Workshop
June 17, 2015, The University Club

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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.

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