



University of Pittsburgh

# THE FORUM

The Tri-State Area School Study Council Newsletter

Volume 24, Issue 1

Fall 2018

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### See related newsletters:

- **Education Law Report, prepared by Tucker Arensberg Law Firm**
- **Special Education Alert, prepared by Andrews & Price, LLC**

### 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

### UNIVERSITY OF PITTSBURGH SCHOOL OF EDUCATION

5522 WW POSVAR HALL  
230 S BOUQUET ST  
PITTSBURGH, PA 15260

PHONE - 412.648.3907  
FAX - 412.648.7185

TRISTATE@PITT.EDU

## 2018-2019 Workshop Calendar\*

Principal Leadership Workshop #2 of 4—Legal Topics, presented by the attorneys of Weiss Burkardt Kramer LLC  
December 6, 2018, Upper St. Clair School District

“Preventing and Responding to Sexual Harassment: Legal Considerations and Community Resources”  
with

Sue Frietsche, Senior Staff Attorney, Women’s Law Project  
Megan Block, Consultant Attorney, Women’s Law Project  
Julie Evans, Director of Prevention and Victim Response, Pittsburgh Action Against Rape  
December 11, 2018, Edgewood Country Club

School Board and Distinguished Educator Banquet \*\*Nomination forms will be available December 1  
March 7, 2019, Edgewood Country Club

PASA & PSBA Workshop  
\*Free to Tri-State member District!  
March 8, 2019, Edgewood Country Club

Dr. Jean E. Winsand Institute for Women in School Leadership  
Additional Award offered—Emerging Female Educator (See pg. 3)  
March 28, 2019, Edgewood Country Club

Dr. Samuel Francis School Law Symposium and Special Education Workshop  
June 20, 2019, Edgewood Country Club \*\*New location!

\*Please check our website (Tristate.pitt.edu) and Twitter (@TriStatePitt) in the upcoming months, as new workshops may be added!

Thank you to the three law firms who contribute the *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*)**



# Green & Healthy Schools Academy



## GREEN & HEALTHY SCHOOLS ACADEMY

An Initiative of Green Building Alliance

[www.greenandhealthyschoolsacademy.org](http://www.greenandhealthyschoolsacademy.org)

The Green & Healthy Schools Academy, which is an initiative of the Green Building Alliance, (GHS) Culture Program is launching a new format this year that will enable more schools and educators to participate in their program. The GHS believes every child deserves to attend

schools that are healthy, high-performing, engaging, inspiring, and innovative. The Academy's signature effort, the School Sustainability Culture Program, is an immersive and transformative experience that assists a diverse group of schools and individuals to inspire lasting change by integrating holistic sustainability values, lessons, and programs across the school's building(s), curriculum, learning, and culture. It focuses on the three pillars of sustainability – environmental impact, human health and social equity, and economic vitality – to create healthier and higher performing individuals, schools, and communities. The program incorporates the values of equity, empathy, collaboration, culture, health and well-being, beauty, community, and school vitality as a means of exploring the unique vision, purpose, and definition of success for each school.

The Culture Program is a learning community of educators who share in the experiences of inspirational, comprehensive, and developmental retreats, lectures, workshops, technical assistance, and projects that catalyze positive transformation. Each cohort of the program is comprised of individuals representing multi-disciplinary backgrounds from a variety of preK-12 schools/districts – public and public charter to parochial and independent. This diversity of experiences and perspectives adds to the value of the peer learning network. The program provides individualized support so that each individual and school can achieve defined goals and reach full potential. The program is designed to:

- Challenge the status quo and inspire a greater vision of what is possible
- Help schools connect with core motivators that build confidence, stakeholder engagement, and a commitment to accomplish aspirational visions
- Assist schools on their journey by helping them overcome barriers, connect with a larger network of resources, and implement programs, policies, and strategies that align with their overall vision and goals.

The program's process of identifying the values, purpose, and strategies that are unique to each individual and school provides a strong foundation for a culture of sustainability and creates great potential for successful implementation of holistic sustainability initiatives throughout the school's buildings, curriculum, learning, and culture. Not only will schools learn new skills and perspectives and increase their sustainability content knowledge, but they will gain a built-in support system of peers and colleagues with whom they can trust to explore, learn, share, provide support, ask big questions, reimagine the role of schools in our communities, implement inspiring projects and programs, and celebrate short- and long-term successes. Additionally, mini grants up to \$2,000 are available to eligible individuals/schools to implement specific projects either in the classroom or throughout the school.



The Culture Program is looking for schools to participate in the 2018-2019 cohort and scholarships and reduced tuition are still available. If you are interested in learning more about how your school can participate in the program, please contact Katie Lockley, Green & Healthy Schools Senior Director at [katiel@gbapgh.org](mailto:katiel@gbapgh.org).

# Tri-State & Local Education News

## Additional Award to be Given at the Dr. Jean E. Winsand Institute for Women in Education

Beginning in the Spring of 2019, the Tri-State Area School Study Council will offer a new award, the Jean E. Winsand Emerging Woman in Education Award will be initiated and awarded to an exemplary emerging educational leader. The new award for an emerging education leader will be celebrated alongside the award that is typically given out at the workshop, honoring a distinguished woman in education. Having two awards allows Tri-State to recognize and honor the accomplishments of women who are at various stages of their leadership careers. Many talented, emerging women in education are positively shaping our schools in western Pennsylvania. The Jean E. Winsand Emerging Woman in Education Award offers a fitting way to recognize these outstanding women.

The 2019 Dr. Jean E. Winsand Women's Workshop will occur on March 28th, 2019. Please visit [tristate.pitt.edu](http://tristate.pitt.edu) to access nomination forms.

## Classrooms Without Borders

Classrooms Without Borders is a premier provider of experiential, extended-term professional development for teachers and educational leaders. Offering unique travel experiences enriched with academic literature and direct application to classroom instruction, CWB prides itself on offering comprehensive seminars with a breadth and depth of content no seen anywhere else.

[Click here to learn more about CWB and view upcoming trips!](#)



## Regional Administrative Transitions

Congratulations to the following new and new-to-district superintendents.

- **Dr. Joseph Dimperio**, Acting Superintendent, Carlynton School District
- **Mr. Joseph Bradley**, Superintendent, Connellsville Area School District
- **Dr. Gary Peiffer**, Superintendent, Greensburg-Salem School District
- **Dr. Monique Mawhinney**, Substitute Superintendent, Highlands School District
- **Mr. Alan Fritz**, Superintendent, South Side Area School District

\*Some districts are in the process of filling vacancies.

## Useful Links

- [PASA Education Update](#)— Topics include updates on graduation requirements, state budget and school funding, legislative news, national news and more!
- **School Safety Articles/Resources:**
  - [“A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013”](#) (U.S. Department of Justice, Federal Bureau of Investigation, 2018) [Click here to read.](#)
  - [“Enhancing School Safety Using a Threat Assessment Model: An Operational Guide for Preventing Targeted School Violence”](#) (National Threat Assessment Center, U.S. Department of Homeland Security & United State Secret Service, 2018) [Click here to read.](#)
  - [Helping Youth after Community Trauma: Tips for Educators](#) [Click here to read.](#)
  - [Talking to Children About Violence: Tips for Parents and Teachers](#) [Click here to read.](#)



**Pennsylvania Department of Transportation** is inviting high school students in grades 9-12 to participate in the second Innovations Challenge. The contest encourages students to use their problem-solving, creative, and strategic-thinking

abilities to solve real-world transportation challenges.

[Click here for more information on the Innovations Challenge!](#)



The University of Pittsburgh School of Education is currently offering application fee waivers for all applicants who apply from September 17, 2018 through December 1, 2018.

[Click here to view programs and learn more!](#)

# The Women's Law Project

## Pennsylvania Ruling Protects Trans-Inclusive Policies for Students

A recent study of more than 81,000 Minnesota-based teenagers reveals that far more U.S. students are transgender or identify as non-binary than has been previously recognized. The study, which surveyed ninth and eleventh grade students, estimated that nearly 3 percent of respondents identify as either transgender or non-binary, meaning they do not identify either with the sex they were assigned at birth or with being either a boy or girl.

School administrators must figure out how to responsibly and appropriately respond to this increasing population of students, and how to provide appropriate accommodations to transgender students and students with non-binary identities.

Technically speaking, at the very least, schools are obligated to ensure they are not inadvertently discriminating against such students.

Title IX of the Education Amendments Act of 1972 is a federal law that says: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."

There has been some dispute in legal circles about where the rights of transgender students falls within the framework of Title IX. At the Women's Law Project, we believe the correct and just interpretation of a school's obligations under Title IX is to create and enforce policies that allow and encourage transgender students to use facilities that correspond to their gender identity, which may differ from the sex assigned at birth based on physical characters such as genitalia.

This summer, the U.S. Court of Appeals for the Third Circuit agreed with our trans-inclusive perspective when they ruled for the rights of transgender students in *Doe v. Boyertown Area School District*.

The plaintiffs in *Doe v. Boyertown Area School District* were a group of high school students who identify as being the same sex they were determined to have at birth (cisgender). They purported to believe that the school's policy—which allowed transgender students to use facilities that match their gender identity--violated their constitutional rights of bodily privacy, as well as Title IX, and Pennsylvania tort law.

The U.S. Court of Appeals for the Third Circuit forcefully rejected the plaintiff's arguments. In fact, they took the unusual step of issuing a ruling within minutes of hearing arguments because, Judge Theodore McKee said, he knew how important the decision was to the high school students involved in the case.

Indeed, the *Boyertown* ruling is important to all transgender and gender-nonconforming students in Pennsylvania, as well as their families. Creating evidence-based trans-inclusive policies such as the policy enforced at Boyertown schools is not just legally appropriate, it is critical to the health and well-being of students.

Many studies have found that transgender youth are more at risk for mental illness, including depression, anxiety, suicidal thoughts and attempts, and self-harm than their non-transgender peers. The issue of bathroom safety—that is, feeling safe while entering and using the facility that matches a person's gender, correlates with reduced risk of suicide.

A 2018 study published in *Journal of Educational and Psychological Consultation* found that what transgender students needed most to feel safe were gender-inclusive restrooms, nondiscrimination policies that are inclusive of gender identity, and the ability to change one's name on campus records without legal name change.

A 2018 study out of the University of Austin published in the *Journal of Adolescent Health* found that when transgender youths are allowed to use their chosen name in places such as work, school and at home, their risk of depression and suicide drops.

It's clear the Third Circuit ruling in *Boyertown* was both legally appropriate and critical for the health and dignity of students of all genders. School administrators in Pennsylvania should be encouraged that the *Boyertown* ruling adds to the momentum of more inclusive, and perhaps lifesaving, school policies. For more information and policy guidance, see <https://transequality.org/issues/resources/faq-on-the-withdrawal-of-federal-guidance-on-transgender-students>.



[www.womenslawproject.org](http://www.womenslawproject.org)  
[infopitt@womenslawproject.org](mailto:infopitt@womenslawproject.org)



## The Collaborative for Assistant School Superintendents

The collaborative, an outreach program of the School of Education at the University of Pittsburgh, will invite a membership of 25-50 Assistant School Superintendents, Assistants to the Superintendent, and Directors of Education who hold a Letter of Eligibility. Members will be chosen because of their passion for education, their advocacy for children, and their commitment to become masters of our profession.

[Click here to view more information and to access the application form.](#)



## Title IX Update

**"Preventing and Responding to Sexual Harassment: Legal Considerations and Community Resources"**

**Tuesday, December 11, 2018**

**Presenters include:**

**Susan Frietsche, Senior Staff Attorney, Women's Law Project**

**Megan Block, Attorney Consultant, Women's Law Project**

**Julie Evans, Director of Prevention and Victim Response, Pittsburgh Action Against Rape**

*All or nearly all schools have a problem with sexual harassment, so being prepared to respond to it and, more importantly, working to prevent it, is essential for everyone.*

**[Register Online!](#)**

## 2018-2019 EXECUTIVE COMMITTEE

### MEMBERS

#### President

**Thomas Ralston**, Superintendent, Avonworth SD

#### Vice President

**Heidi Ondek**, Executive Director, Western Pennsylvania School for Blind Children

#### Past President

**Janet Sardon**, Superintendent, Yough SD

**Alfonso Angelucci**, Superintendent, Slippery Rock Area SD

**Darby Copeland**, Director, Parkway West CTC

**Matthew Curci**, Superintendent, Apollo-Ridge SD

**Michael Daniels**, Superintendent, Canon-McMillan SD

**Timothy Gabauer**, Superintendent, Mt. Pleasant Area SD

**Joseph Guarino**, Superintendent, New Brighton Area SD

**Jill Jacoby**, Superintendent, Fort Cherry SD

**Michael Latusek**, Superintendent, Diocese of Pittsburgh

**David Lehman**, Superintendent, Conemaugh Valley SD

**Janell Logue-Belden**, Superintendent, Deer Lakes SD

**Michael Loughead**, Superintendent, Hampton Township SD

**Charles Mahoney**, Executive Director, Intermediate Unit 1

**Scott Martin**, Superintendent, Bentworth Area SD

**Michelle Miller**, Superintendent, Hopewell Area SD

**Donna Nugent**, Superintendent, Big Beaver Falls Area SD

**Gennaro Piraino**, Superintendent, Franklin Regional SD

**Robert Scherrer**, Superintendent, North Allegheny SD

**Tracy Vitale**, Superintendent, Seneca Valley SD

**Diane Kirk**, Director

**Kelsey Cole**, Administrative Assistant

#### EXECUTIVE COMMITTEE MEETINGS

*Edgewood Country Club, 9am-11am*

**September 19, 2018    December 12, 2018**

**March 20, 2019    June 19, 2019**

*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:*

Tri-State Area School Study Council  
University of Pittsburgh  
5522 Wesley W. Posvar Hall  
230 South Bouquet Street  
Pittsburgh, PA 15260

Phone: (412) 648-3907  
Fax: (412) 648-7185  
Email: [tristate@pitt.edu](mailto:tristate@pitt.edu)

Director: Dr. Diane L. Kirk  
Phone: (412) 648-1716

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

## Bullying, Harassment and Sex Discrimination: The Latest Developments

By Nicole Williams, Esq.

*In June, a Philadelphia Court of Common Pleas judge ordered the Philadelphia School District to pay \$500,000 to the family of a female student after the judge found that the student had been subject to ongoing bullying and harassment which the school district failed to remedy. In his opinion, Judge Gene Cohen ruled that the school district acted with deliberate indifference towards the student and violated the Pennsylvania Human Relations Act (PHRA), which prohibits sex discrimination.*

According to the facts of the case, the student, Amanda Wible, was first subjected to severe and persistent taunting, teasing, bullying and harassment because of her failure to conform to societal expectations for girls in terms of appearance or dress while attending an elementary school in the district in 2003. Additionally, Amanda was physically assaulted by a larger male student who also verbalized sexual taunts towards her. Though the district was notified of all behavior by Amanda's mother, it failed to take remedial action. Instead, the school district punished only the student who physically assaulted Amanda but exacted no punishment on any students for the continuing sexual harassment.

Amanda then transferred to a new school in the district for 6th grade. She was again subjected to severe and persistent harassment and physical assault due to her gender presentation. Her mother once again informed the school district and once again no remedial actions were taken. In 7th grade, Amanda was the victim of a particularly vicious physical assault in a classroom carried out by as many as 10 students. Amanda was blamed for the attack and was suspended as a result. She subsequently transferred mid-year to another school in the district. At this point, Amanda's mother met preemptively with the school district administrators and sent a letter to all of Amanda's teachers to inform them of the harassment that Amanda had suffered at her previous school. Yet again, Amanda was the target of bullying and harassment and despite continued reporting by both Amanda and her mother, no action was taken by the school district.

Amanda continued onto high school at a different school in the district where she was again subject to severe and persistent taunting, teasing, bullying, and harassment. Amanda reported the behaviors but the school district took

*continued on next page*



Nicole Williams

## Act 44: A Continued Look at Resources to Keep Our Schools Safe

By Annemarie Harr, Esq.

*Act 44 of 2018 was enacted on June 22, 2018 and provides new requirements to school districts aimed at ensuring school safety. As you likely already know, the Act requires schools to appoint a school administrator to fill the role of School Safety and Security Coordinator.*



Annemarie Harr

This appointment was required to be made by August 31, 2018. In addition, the Act establishes a State School Safety and Security Committee. The Committee's purpose is to develop criteria necessary to assess school safety and security, establish a registry for vendors that are able to conduct school safety assessments, and issue a survey to school entities to review school security preparedness; the survey must be completed by November 30, 2018. The Committee, which is developed within the Pennsylvania Commission on Crime and Delinquency, will also administer \$60 million dollars in funding via grants to school districts to be used to increase safety measures within schools, including, but not limited to, the purchase of equipment, trainings, counseling services, screenings, and to secure School Resource and Police Officers.

Under the Act, school districts who employ school police officers must now report annually to the Office of Safe Schools with the number of officers employed by the school district, the municipality that the school district sits in, and

**Resources continue to allow our schools to be environments where students' primary focus is learning and growing both academically and socially.**

the date and type of training each officer has received. If your school district does not currently employ school police officers, but is interested in doing so, school districts can apply to the Court of Common Pleas to appoint an officer

and to grant the officers arrest powers, authority to issue citations for summary offenses, and the authority to detain students for local law enforcement. Each school district has discretion to determine what power they seek for their employed school police officers within the above parameters.

In addition, if a school police officer has been given authority to detain students, or has been authorized to carry a firearm, the officer must successfully complete municipal police education and training or must have graduated from

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#### **Act 44: Resources to keep our schools safe, *continued***

the Pennsylvania State Police Academy and have been employed as a State trooper with the Pennsylvania State Police and separated from service in good standing. These requirements must be fulfilled prior to the officer beginning his or her duties.

Finally, and perhaps most beneficial, Act 44 created the *Safe2Say Program* which is intended for students, teachers, and the community to anonymously report behavior that is threatening to the school community as a whole, or to an individual within the school community. This program must be administered by the Attorney General by January 14, 2019. The information reported through the *Safe2Say Program* will be forwarded to both the affected school entity, as well as local law enforcement.

As a reminder, in the Spring 2018 edition *In Brief/The Forum*, our office provided information to help prevent school violence. It is our hope that the positive behavioral supports already in place in your schools, combined with these new requirements and opportunities for funding, will continue to allow our schools to be environments where students' primary focus is learning and growing both academically and socially. Should you have any questions regarding the new Act 44 requirements, please do not hesitate to contact our office. ♦

### **We're Speaking...**

- Attorney Annemarie Harr has joined the faculty of the Duquesne University School of Law as an adjunct professor. Attorney Harr's course title is "Special Education Law."
- On October 8, 2018, Attorneys Aimee Zundel and Rebecca Heaton Hall will be presenting at the Pennsylvania Bar Institute's Exceptional Children's Conference in Lancaster, PA. Attorney Zundel will co-present with Jeni Hergenreder of the Disability Rights Network on the topic of "Meaningful Parental Participation for Parents who have Specialized Needs." Attorney Hall will be presenting on "School Safety: Behavior Response, Discipline, and Involvement of Law Enforcement."
- On October 24, 2018, Attorney Hall will co-present with Dr. Jessica Dirsmith, NCSP, at the Association of School Psychologists of Pennsylvania & Pennsylvania State University 2018 Fall Conference in State College, Pa. The topic of the presentation will be "A Practitioner's Guide to Legally Defensible Practices in the Prevention, Intervention, Assessment, and Identification of Students under IDEA's Emotional/Behavioral Disability Category." Following that presentation, Attorney Hall will be guest lecturing at the University on the topic of "Meeting the Instructional Needs of English Learners."
- Attorneys Hall, Harr and Lynne Sherry will be part of a panel of presenters for a two-day National Business Institute's seminar on "IEPs and 504 Plans: A Legal Compliance Guide." The seminar will be held on December 19 and December 20, 2018.
- Attorney Jocelyn Kramer is scheduled to present at the 25th Annual LRP's Special Education School Attorneys Conference in Phoenix, AZ from January 14-16, 2019. Attorney Kramer will be speaking on the issue of school violence and special education.

#### **Bullying, harassment and sex discrimination, *continued***

no action. Amanda began attending a cyber charter school in her 10th grade year.

Judge Cohen found that because Amanda was targeted for bullying and harassment based on her gender presentation, which is a form of discrimination based on sex, she could recover against the school district under the PHRA. The judge further determined that the school district was repeatedly given verbal and written notice of the harassment, the school district's procedures for dealing with student-on-student sexual harassment were non-existent, and the occasional discipline imposed on the assailants was not enough to discharge the school district's responsibilities under the PHRA. As such, the judgment, believed to be the first where the PHRA has been used to hold a school district accountable for student-on-student bullying, was awarded against the school district.

Subsequently, in August, the Pennsylvania Human Relations Commission (PHRC) released Guidance on Discrimination on the Basis of Sex under the PHRA ("Guidance"). This Guidance makes it clear that, for purposes of the PHRA, the term "sex" includes sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity and/or gender expression. Prohibitions contained in the PHRA against discrimination on the basis of sex prohibit discrimination on the basis of sex assigned at birth, sexual orientation, transgender identity, gender transition, gender identity, and/or gender expression. A full copy of the Guidance can be found online at:

<https://www.phrc.pa.gov/About-Us/Publications/Documents/General%20Publications/APPROVED%20Sex%20Discrimination%20Guidance%20PHRA.pdf>

Should you have any concerns or questions regarding your school's policies or procedures for handling complaints of student harassment or bullying or how this recent case and the updated Guidance may affect your school, we advise immediately contacting your solicitor or the experienced attorneys at WBK. ♦

### **Weiss Burkardt Kramer LLC**

445 Fort Pitt Boulevard Suite 503 Pittsburgh, PA 15219  
[www.wbklegal.com](http://www.wbklegal.com)

Phone: (412) 391-9890

Fax: (412) 391-9685

Ira Weiss

[iraweiss@wbklegal.com](mailto:iraweiss@wbklegal.com)

M. Janet Burkardt

[jbkburkardt@wbklegal.com](mailto:jbkburkardt@wbklegal.com)

Jocelyn Kramer

[jkramer@wbklegal.com](mailto:jkramer@wbklegal.com)

*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.*