



University of Pittsburgh

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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17th Annual Dr. Samuel Francis School Law Symposium and Special Education Workshop

Wednesday, June 21, 2017

**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](#)

Tri-State Workshops

15th Annual Dr. Jean E. Winsand Institute for Women in School Leadership In Review

Why Not Me; Cultivating Women's Leadership Journey

The 15th annual Dr. Jean E. Winsand Institute for Women in School Leadership workshop was held on March 28th, at the Edgewood Country Club. The program, named in memory of women's rights activist and University of Pittsburgh Professor Emeritus Jean Winsand, is a discussion of pathways to career success, empowering and inspiring women looking to make positive changes in their lives and careers.

The workshop consisted of three break out sessions that participants rotated between:

- "Knowing Yourself", presented by Dr. Diane Kirk (Director, Tri-State Area School Study Council) and Dr. Sharon Suritsky (Assistant Superintendent, Upper St. Clair School District)
- "Traits of Female Leaders", presented by Nancy Aloï (retired Superintendent, Bethel Park School District) and Dr. Valerie McDonald (retired Superintendent, Avonworth School District)
- "Decision Making and Its Impact", presented by Dr. Linda Hippert (Executive Director, Allegheny Intermediate Unit) and Dr. Heidi Ondek (Superintendent, Quaker Valley School District)

In 1999, the Tri-State Area School Study Council authorized an annual award to be presented to a woman in education whose achievements are widely recognized as being exemplary in education. The award was named the Jean E. Winsand Distinguished Woman in Education Award in 2003. The award is symbolic of the type of leadership Dr. Winsand displayed through her work with the Tri-State Area School study Council between 1985 and 2001. The 2017 award was presented to Seneca Valley Superintendent, Dr. Tracy Vitale during the lunch portion of the workshop. According to nominator Heidi Ondek, Quaker Valley Superintendent, "Dr. Vitale continually gives back to the profession by coaching, mentoring and advising female professionals as well as encouraging the leadership potential of female students." ♦



2017 Jean E. Winsand Distinguished Woman in Education Award winner, Dr. Tracy Vitale, Seneca Valley School District Superintendent, with Seneca Valley Colleagues.

Tri-State Workshops

69th Annual School Board and Distinguished Educator Banquet In Review

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. The 2017 banquet was held on March 9th, 2017.

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 recipient, selected from a pool of notable candidates, is **Avonworth School District Superintendent, Dr. Thomas Ralston**. According to co-nominators Dr. Heidi Ondek (Superintendent, Quaker Valley School District), Dr. Michelle Miller (Superintendent, Hopewell Area School District) and Dr. Bille Rondinelli (Superintendent, South Fayette School District), Dr. Ralston is a "national stand out among superintendents" as well as "an outstanding person, leader and educator".



2017 Distinguished Educator award recipient, Dr. Thomas Ralston, with Tri-State director, Dr. Diane Kirk.

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 improving schooling for students.

Two boards were selected to receive the 2016-2017 D. Richard Wynn Award: **Franklin Regional School District** and **North Hills School District**.



Franklin Regional School District Board of School Directors, 2017 D. Richard Wynn Award recipients

The Franklin Regional School District Board of School Directors were selected for their perseverance towards a vision of excellence, learning and achievement for all students. Despite the unprecedented act of school violence in 2014 when a student stabbed 20 students and a security guard in the halls of the district's high school, the board never lost site of the purpose of its work: to improve schooling for students in the Franklin Regional School District. According to the submitted nomination, "the School Board and District emerged from this incident of school violence strong and more committed to moving the educational program forward. That focus continues to this day."

The North Hills School District Board of Directors were selected for their notable commitment to providing a quality education for students in a very challenging climate. They worked collaboratively to support the students of the North Hills School District not only through a strong commitment to academics and curriculum, but by seeking to create responsible, well-rounded students through support of technological innovations, fine arts programs, extracurricular activities and athletics, and career and technical programs. ♦

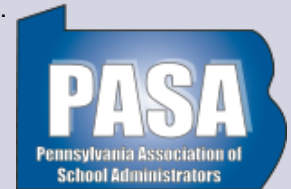


North Hills School District Board of Directors, 2017 D. Richard Wynn Award recipients

“Leading Public Education in Complex Times” Workshop Review

Tri-State Area School Study Council held the annual free workshop on March 10, 2017. The workshop was presented by Marck DiRocco, Executive Director, Pennsylvania Association of School Administrators (PASA) and Sean Crampsie, Lobbyist/Social Media Outreach Manager, Government Affairs, Pennsylvania School Boards Association (PSBA). A few topics from the program include:

- The New Political Reality in Harrisburg and U.S. Department of Education
- ESSA: National, State and Local Update
- The Ongoing State Budget Crisis
- The Critical Role of the Superintendent
- Why Good Governance is Imperative: The Importance of the Team of Ten



Green & Healthy Schools Academy

An Initiative of the Green Building Alliance

The Green & Healthy Schools Academy (GHSA) is committed to providing inspiring, engaging, healthy, and high-performing places of learning for all students. We do that by working with schools and districts on a variety of levels to inspire, educate, and support action toward green and healthy schools. Our programs include the School Sustainability Culture Program, Innovative Learning Lab, and Healthy Schools Technical Assistance.

For more information, connect with us at:

<http://greenandhealthyschoolsacademy.org>

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412-773-6007



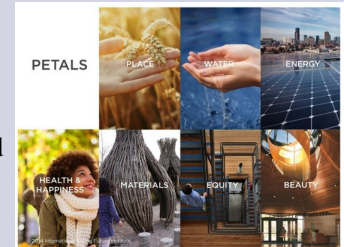
**GREEN & HEALTHY
SCHOOLS ACADEMY**
An Initiative of Green Building Alliance

Making & Sustainability

Over the past several months, GHSA has worked with eight educators from three Intermediate Unit 1 campus schools to explore the intersection of maker education and sustainability. We successfully piloted three new professional development workshops that introduced participants to different sustainable design lenses, including biomimicry, using nature’s genius in design, and the Living Product Challenge (which challenges makers to explore how products are made through several “petals,” such as beauty, equity, health, and energy). They also visited local companies and organizations that emphasize sustainable making, including THREAD International, Ductmate Industries, and Frick Environmental Center.

Participants explored why this work is important to themselves, their students, and their communities, and considered how they might implement short- and long-term goals to foster a culture of sustainable making at their schools. Many of those involved identified the lack of recycling as a place to start and successfully initiated new collection programs at two school buildings. One school is planning to kick off its new recycling program with a schoolwide celebration. During our most recent workshop, educators used the biomimicry design spiral and inspiration from oranges, cacti, and soil to create a more innovative and sustainable coffee cup, then finished the day by prototyping their designs. We are currently planning to co-facilitate similar design activities for students at each of the schools.

*If you are interested in exploring maker education and sustainability, email Teresa DeFlicht, GBA’s Director of Learning Innovation, at teresad@gbapgh.org.



Survey to Better Support School Environmental Clubs

GHSA is partnering with Carnegie Mellon University’s CREATE Lab to explore how our programs can help school environment and sustainability clubs to be more connected and effective. We want to learn if there are commonalities among schools in terms of needs, goals, and interests so we can identify ways to better support them. Please encourage educators who are interested or engaged in sustainability issues at your school/district to complete the survey so we can begin connecting with them. It, along with a more detailed description, can be found at <https://www.surveymonkey.com/r/enviroclubs>.

Footage from “Chartiers Valley School District’s Vanguard Project Showcase” Now Available

Is your school or district considering a capital project? If so, we highly recommend you review a video from the October presentation of the CVSD Middle and High School project. During the presentation, Andrew Ellsworth (GHSA) and Matt Hansen (IKM Incorporated) laid out a process for how schools can yield exceptional outcomes from the design process through thoughtful community engagement, exploration of values and the future of education, and multidisciplinary collaboration. The video can be found here: <http://www.greenandhealthyschoolsacademy.org/blog/full-video-from-presentation-vanguard-project-showcase-chartiers-valley-middle-high-schools>.

(Green and Healthy Schools Academy news continued on page 4)

(Green and Healthy Schools Academy news continued from page 3)

Technical Assistance and Mini-Grants for Lead in Drinking Water and Radon

GHSA is pleased to formally announce a program to help K-12 schools and child care centers address the key environmental hazards of lead in drinking water and radon. These two risks are often prevalent in school and child care environments, and can cause significant health effects if not correctly managed. GHSA, in partnership with Women for a Healthy Environment, is offering free technical assistance and training to help facilities through the testing and mitigation process. GHSA is offering a free training for schools on best practices for managing lead in drinking water and radon on April 20th at A.W. Beattie Career Center. Learn more about this training at <https://www.go-gba.org/events/healthy-school-essentials-managing-lead-drinking-water-radon/>.

We also have funding available for mini-grants of up to \$7,000 per facility to help with the financial burden of managing these issues. Although mini-grant applications are accepted on a rolling basis, we recommend submitting applications as soon as possible. To learn more about this opportunity, contact Andrew Ellsworth at andrew@gbapgh.org or 412-414-9293. ♦

Title IX Update: A Victory for Transgender Students' Rights in Pennsylvania: Federal Judge Blocks Policy Denying Trans* Students Access to Bathroom Facilities Matching Their Gender Identity

On February 27, 2017, U.S. District Court Judge Mark Hornak issued a ruling in favor of three transgender high school students in an ongoing case, *Evancho v. Pine-Richland School District*. The ruling orders the school district to allow transgender students to use bathrooms that match their gender identity. This court decision came down just five days after the Trump administration rolled back federal guidelines that advised schools to allow transgender students to use the bathrooms of their choice.

The lawsuit arose out of the school district's recent decision to implement a policy that required students to use gendered facilities matching their assigned sex at birth or gender neutral facilities. The school district had for years allowed transgender students to use facilities matching their gender identity. Eventually some parents began to complain that allowing transgender students to use facilities corresponding with their gender identity violated their children's privacy rights, and amid pressure from those parents, the school district caved.

Soon after the policy went into effect, the transgender students filed a federal lawsuit against the school district, arguing the policy both violates Title IX and denies them equal protection. The school district defended the rule as a harmless measure to address parents' privacy concerns, reasoning that transgender students who feel uncomfortable using bathrooms corresponding to their assigned sex can use single-user bathrooms.

Judge Hornak disagreed with the school district. In a 48-page opinion, Judge Hornak extensively considered the facts and concluded that the transgender students were likely to prevail on their equal protection claim but not on their Title IX claim. Focusing on the equal protection claim, he found the rule singles out transgender students based on their transgender status. Differential treatment based on transgender status is, in Judge Hornak's words, "the epitome of discrimination based on gender nonconformity" and "akin to discrimination based on sex."

Judge Hornak held that the school district failed to show an "exceedingly persuasive justification" to support enforcement of the rule for several reasons. First, there was no evidence that the privacy rights of any student had been violated by allowing transgender students to use bathrooms matching their gender identity. Second, the preferences of parents, while important to consider when shaping school policy, does not take precedence over the school's legal obligation to provide students equal protection of the law. Third, the school could not justify disparate treatment of transgender students by giving them access to gender neutral facilities, as doing so places the onus on the student to "solve the problem" and "further separate themselves from their peers."

In times of abandoned support from the new administration, Judge Hornak's ruling casts an optimistic tone in favor of transgender rights and justice and is likely to impact future litigation. As Judge Hornak observed in his opinion, the transgender students who wish to use bathroom facilities matching their gender identity are "seeking to do what young people try to do every day—go to school, obtain an education, and interact with their peers." ♦

The Proposed Elimination of Property Tax: Another Attack on Local Control

by Ira Weiss, Esq.

Real estate tax provides over 80% of the revenue to fund school districts in Pennsylvania. House Bill 76/Senate Bill 76, also known as the Property Tax Independence Act, proposes to eliminate real estate taxes for school districts and replace that revenue with funding from a single state source.



Ira Weiss

There are several components to the Act:

- An increase in the state personal income tax from 3.07% to 4.95%;
- An increase in the state sales tax to 7%;
- Adding certain items which are currently not taxed to the taxable base including food, clothing and professional services such as washing, cleaning, waxing, polishing or inspecting a motor vehicle; dry cleaning and tailoring; adjustment, collection or reporting services; secretarial or editing services; pest control, building maintenance or cleaning services; and lawn care.

This Bill is the latest step in the legislature's grand plan to place the control of school districts and the revenue necessary to fund them in the hands of the state rather than allowing the control to remain at a local level. This erosion of control has been an evolutionary process. Act 34 of 1973, aka The Taj Mahal Act, was the first major move to trim local control. That Act requires voter referendum if school construction costs exceed estimates by a certain limit. The next move on local control came with the passage of Act 1 which limits millage increases to the Employment Cost Index. Now comes HB/SB 76 which would erode even more local control of school district finances.

If HB/SB 76 were to be passed, the results could be disastrous for individual taxpayers and school districts.

continued on next page

Recent Developments on the Issue of Transgender Student Rights

by Annamarie K. Harr, Esq.

On February 22, 2017, the Department of Justice, Civil Rights Division ("DOJ") and the Department of Education, Office for Civil Rights ("OCR") issued a joint Dear Colleague Letter that withdraws the statements of policy and guidance in the Dear Colleague Letter on Transgender Students that was issued on May 13, 2016. Importantly, the most recent Dear Colleague Letter does not make substantive changes to the law, nor does it create a need to revise school policies that allow for students to use facilities of the gender with which they identify, should your District already have such a policy in place.



Annamarie K. Harr

In the February 22 Dear Colleague Letter, the DOJ and OCR state that under recent case law there is a conflict with how courts are interpreting the legal definition of "sex", which is relevant to the application of Title IX. In this context, the DOJ and OCR believe that states and local school districts should be in charge of establishing local educational policy, rather than enforcing school district policy by way of a federal mandate. Therefore, the previous federal guidance that required districts to allow students to, among other things, use facilities consistent with the gender with which the student identified, was withdrawn and rescinded.

School Boards have the authority to create and enact policies for the benefit of the school district that they serve.

Similarly important, on February 27, 2017, a preliminary injunction was granted by the U.S. District Court for the Western District of Pennsylvania in *Evancho et. al. v. Pine-Richland School District*. This ruling effectively prohibits Pine-Richland School District from forcing students who are transgender to use either single-user bathrooms or bathrooms labeled as matching their assigned sexes. The injunction does not bring closure to the case, but does allow the students to use the bathroom of the gender with which they identify while the final outcome is still pending.

continued on next page

Proposed Elimination of Property Tax *continued*

School boards would no longer have taxing authority and districts will no longer have the ability to make decisions fundamental to educating their students.

Proponents of HB/SB 76 claim that the real estate tax is an archaic tax that no longer works to satisfy the economic needs of schools. They claim that an increase in personal income and sales taxes will be more fair and effective than property tax. However, what these supporters overlook is the benefits of the real estate tax for school districts and individual taxpayers. Real estate taxes are generally stable and predictable. They are relatively easy and inexpensive to collect. Local elected officials are answerable to local voters when they set the tax rate.

If HB/SB 76 were to be passed, the results could be disastrous for individual taxpayers and school districts. The Bill shifts the tax burden from commercial taxpayers such as office buildings, malls, apartment owners and industrial taxpayers to individuals. If commercial taxpayers no longer have to pay property tax, individual taxpayers will have to cover that commercial property tax relief through increased personal income and sales tax. And, municipalities and counties may still levy real estate taxes against individuals. The Bill also affords school districts the ability to continue to levy real estate taxes to pay off existing debt. Most of this debt is issued as 20-year bonds, meaning that it could take many years for a total elimination of real estate tax. According to an analysis completed by PASBO (Pennsylvania Association of School Business Officials), about 43% of districts would need to keep at least 20% of their existing levy to pay down debt and a few districts would need to keep all or almost all of their levy to pay down current bonds. This means that individual taxpayers will end up paying increased personal income, sales, and property tax. Finally, both sales and income taxes are sensitive to overall economic conditions and an economic downturn means less revenue which means less predictability for school districts when estimating their tax revenues.

In 2015, the state Senate vote on this Bill resulted in a tie. The measure failed after a tiebreaking vote by Lt. Governor Mike Stack. Though it is unlikely that the Bill would have been passed in the state House and subsequently signed by Governor Wolf, the Bill is gaining momentum again. We will continue to keep you updated on any developments. ♦

Transgender Student Rights *continued*

Most recently, on March 6, 2017, the Supreme Court announced that it was sending the case in *G.G. v. Gloucester County School Board* back to the Fourth Circuit Court of Appeals to be reconsidered in light of the February 22 Dear Colleague Letter. The case, similar to *Evancho*, was filed against the Gloucester County School Board for adopting a policy that requires students who are transgender to use “alternate private” restroom facilities.

Despite all of this, what has remained consistent is a School Board’s authority to create and enact policies for the benefit of the school district that they serve, so long as those policies are consistent with the law. Our office will continue to monitor these developments, and update you accordingly.

As always, if you have any questions regarding this topic, do not hesitate to contact our office. ♦

We’re Speaking...

- Attorney Ira Weiss presented a seminar at the 2017 PASBO Conference and Exhibits in Pittsburgh on March 22, 2017. Mr. Weiss’ session was titled, “Fair Labor Standards Act – Changes and Final Rulings.”
- Attorney Weiss will also be participating in the 2017 Pennsylvania Bureau of Mediation and Pennsylvania Labor Relations Board Joint Conference on March 29, 2017 in Camp Hill. Mr. Weiss will serve as a panel member for a session on “Negotiating Health Care After the Affordable Care Act.”
- On March 31, 2017, Attorney Weiss will be speaking on the topic of equalizing the millage rate after reassessment and other post-reassessment concerns at the Intermediate Unit 1 meeting of business managers.
- Attorneys Jocelyn Kramer and Rebecca Hall will be presenting at the National Business Institute’s “FBAs and BIPs: An Essential Legal Guide” seminar in Pittsburgh on April 26, 2017. Ms. Kramer’s session is entitled “Handling FBA/BIP Disputes: Essentials Schools Need to Prove Their Position.” Ms. Hall will present on “BIPs and IEP Behavioral Components: Critical Legal Considerations” and “Special Education Due Process Hearing Steps and Best Practices.”

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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.

We've moved!

Please note our address change within Wesley W. Posvar Hall. We will be able to receive mail at the old address for a time, but please make changes in your directories now!

5522 Wesley W. Posvar Hall
230 South Bouquet Street
Pittsburgh, PA 15260



Tri-State Area School Study Council Calendar of Events

19th Annual Dr. Samuel Francis School Law Symposium and Special Education Workshop
June 21, 2017, The University Club

Executive Committee Meeting
June 14, 2017



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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.*