



University of Pittsburgh

THE FORUM

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See related newsletters:

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

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 Workshop Summaries

19th Annual Dr. Samuel Francis School Law Symposium and Special Education Workshop

Tri-State, in cooperation with the University of Pittsburgh School of Law, hosted another successful Samuel Francis workshop on June 15, 2016. Fifteen new and veteran presenters shared a wealth of important information with the attendees. Materials from each presentation are available at <https://tristate.pitt.edu/workshops/school-law-and-special-education-conference>.

During the luncheon portion of the program, Tri-State celebrated the accomplishments of **Jocelyn P. Kramer** by awarding her with the Distinguished Achievement in Law Award. Jocelyn is a partner at Weiss Burkardt Kramer, LLC in Pittsburgh. She specializes in the areas of special education, student services and school employment law. She has served as Solicitor and Special Council for school clients in Western Pennsylvania since 2004. She currently serves as Deputy Solicitor for the School District of Pittsburgh as well as the Secretary for the Association of Municipal and School Solicitors. Jocelyn earned her undergraduate degree from the University of Pittsburgh and her Juris Doctor from the University of Pittsburgh School of Law.



Lawyers representing the Weiss Burkardt Kramer, LLC law firm of Pittsburgh from left to right: Hobart J. Webster, Joseph D. Shaulis, Annemarie K. Harr, Ira Weiss, **Jocelyn P. Kramer**, Janet Burkardt, Rebecca Heaton Hall, Lisa M. Colautti, Aimee Rankin Zundel

13th Annual Dr. Jean E. Winsand Institute for Women in School Leadership

The 14th annual Dr. Jean E. Winsand Institute for Women in School Leadership was held on April 6, 2016 at the Edgewood Country Club. Named in memory of women's rights activist and University of Pittsburgh Professor Emeritus Jean Winsand, the program focused on successfully navigating the work/life balance.

The workshop featured veteran CEO coach, entrepreneur, consultant, author, educator, keynote speaker, board member and author, **Dr. Leslie W. Braksick**, Co-Founder and Senior Partner, My Next Season. Dr. Braksick delivered an energetic message and provided a framework for the all-female audience to use that will enable them to maximize their capability to lead with confidence and capability. During lunch, Tri-State recognized



2016 Distinguished Female Educator,
Dr. Sharon Suritsky

Tri-State Workshop Summaries

Enhancing School Governance and Management



Nathan Mains,
PSBA

On March 18, Tri-State hosted **Nathan Mains**, Executive Director of the Pennsylvania School Boards Association (PSBA) and **Jim Buckheit**, Executive Director of the Pennsylvania Association of School Administrators (PASA) on March 18, 2016 for the annual “Enhancing School Governance and Management Workshop.”

The speakers shared key strategies and insights into improving district governance and management and discussed how an effecting working relationship between Boards and Administrators results in improved student achievement. They also addressed key issues at the state level, including the budget and pensions.

The powerpoint presentation from the 2016 workshop is available online at <https://tristate.pitt.edu/workshops/enhancing-school-governance-and-management> .



Jim Buckheit, PASA

68th Annual School Board and Distinguished Educator Banquet

Tri-State’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 to being an enjoyable

Distinguished Educator Award

Since 1981, Tri-State has [annually recognized](#) outstanding administrators, retired educators and University faculty for their achievements of and contributions to education with the Distinguished Educator Award. This year’s honoree, selected from a pool of notable candidates, is **South Fayette Township School District Superintendent, Dr. Bille Pearce Rondinelli**. Dr. Rondinelli was nominated by Dr. James Manley, who describes her as being “a collaborative leader who has strong core values and is a true professional.” South Fayette Assistant Superintendent commented, “when you define the vision of excellence for an educational leader you are really defining the total being of Dr. Bille Rondinelli.”



Dr. Bille Rondinelli, South Fayette School District Superintendent with Dr. Diane L. Kirk

D. Richard Wynn 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 1974-1980. 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 2015-2016 D. Richard Wynn Award: **Bethel Park School District** and **Wilmington School District**.



Bethel Park School Board



Wilmington School Board

Upcoming workshop dates and registration information!

News and Local Education Event Information!

Check Out Our Website!
tristate.pitt.edu

Job Postings for Education and Administrative Positions!

Updates coming in the next few weeks!

Tri-State & Local Education News

Regional Chief Administrator Changes

As of July 1, 2016

Retired Administrators

We congratulate and thank the following administrators for their years of service to the students of Western Pennsylvania:

Beaver Area: Dr. John Hansen

Bethel Park: Nancy Aloï Rose

Gateway: Dr. Nina Zetty

Hampton Area: Dr. John Hoover

Hopewell: Dr. Chuck Reina

North Allegheny: Dr. Raymond Gualtieri

Pittsburgh Public Schools: Mrs. Linda Lane

South Park: Jeanine Gregory

West Jefferson Hills: Dr. Michael Panza

Administrative Transitions

Congratulations to the following new and new-to-district superintendents and directors over the past year:

Aliquippa– Dr. Peter Carbone, Acting Superintendent

Altoona– Dr. Charles Prijatelj, Superintendent

Beaver Area: Dr. Carrie Rowe, Superintendent

Bethel Park: Dr. Joseph Pasquerilla, Superintendent

Gateway: Dr. William Short, Superintendent

Grove City: Jeffrey Finch, Superintendent

Hampton Twp.: Dr. Michael Loughhead, Superintendent

Hopewell Area: Dr. Michelle Miller, Superintendent

Leechburg: Tiffany Nix, Superintendent

North Allegheny: Dr. Robert Scherrer, Superintendent

Northern Cambria: Rick Huffman, Superintendent

Northgate: Caroline Johns, Superintendent

North Star: Louis Lepley, Superintendent

Penn Cambria: William Marshall, Superintendent

Pittsburgh Public Schools: Dr. Anthony Hamlet

Shaler Area: Sean Aiken, Superintendent

South Allegheny: Rich Fine, Acting Superintendent

South Park: Wayne Gdovic, Superintendent

West Jefferson Hills: Elizabeth Wheat, Acting Superintendent

Wilmington: Jen Conrad, Acting Superintendent

Windber: Joe Kimmel, Superintendent

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



**GREEN & HEALTHY
SCHOOLS ACADEMY**

An Initiative of Green Building Alliance

At Green Building Alliance, we foster and celebrate buildings that are healthy and high performing, have minimal effects on the environment, and raise the bar for performance. Our Green and Healthy Schools Academy (GHSA) works with educators, administrators, students, and community members to bring innovative, inclusive, collaborative, inspiring places of learning into our region's schools. The [Chartiers Valley School District](#) (CVSD) – a graduate of the GHSA [School Sustainability Culture Program](#) – brought that process full-circle when it recently broke ground on the replacement of its middle and high schools in Collier Township.

The forthcoming facilities embrace a student-centered approach to education by accommodating diverse and personalized learning experiences in synergetic and flexible spaces, where the buildings can foster creativity and be models of sustainability. We are thrilled to highlight the thoughtful, inclusive, and innovative process that has brought the district to this exciting point. We believe the completion of this project will be a watershed moment in our region, setting a new standard for how school design and construction will take place.

[Read the full article here!](#)

Principal Leadership Institute Workshop Series

Tri-State Area School Study Council is pleased to invite all member districts to participate in the Principal Leadership Institute Workshops for the 2016-2017 school year. The series, made up of four workshops designed for principals and assistant principals, will seek to foster a strong network for participating administrators and provide a strong professional development experience.

The cost to attend the series is \$500. Please click [here](#) or visit our website to access the registration form. Dates of the 4 workshops will be updated on the website in August.

Title IX Update

OBAMA ADMINISTRATION ISSUES GROUNDBREAKING GUIDANCE ON TRANSGENDER STUDENTS' RIGHTS

On May 13, 2016, the U.S. Departments of Justice and Education sent a "Dear Colleague" letter, available at <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201605-title-ix-transgender.pdf>, to school districts across the nation to notify them that the administration views discrimination against transgender students to be a form of sex discrimination prohibited by Title IX.

Title IX of the Education Amendments of 1972 requires that any educational program or activity that receives federal funds must ensure that no one is excluded from participation in, denied the benefits of, or subjected to discrimination by the educational program "on the basis of sex." Title IX is widely credited with opening up school-sponsored athletic opportunities for women and girls, and has been used to vindicate pregnant students' rights to continue their education and to improve schools' response to sexual harassment and assault. The Dear Colleague letter is the first formal guidance to focus specifically on Title IX's applicability to transgender students.

According to the letter, "When a school provides sex-segregated activities and facilities, transgender students must be allowed to participate in such activities and access such facilities consistent with their gender identity."

Transgender students must be allowed access to bathrooms and locker rooms consistent with their gender identity, whether or not that identity is reflected on a birth certificate or other legal document. Furthermore, the Dear Colleague letter states, "A school may not ... adopt or adhere to requirements that rely on overly broad generalizations or stereotypes about the differences between transgender students and other students of the same sex (i.e., the same gender identity) or others' discomfort with transgender students."

This administrative guidance is being hailed by gender justice advocates as an important and long-overdue response to the dangerous, exclusionary atmosphere trans and gender-nonconforming students all too often face at school. Surveys show that trans students are more likely than other students to be targeted for physical assaults and sexual and verbal harassment in the school setting. Forcing a trans woman to use the men's bathroom could expose her to embarrassment, harassment, and outright physical danger, and it communicates the message that the school does not welcome her presence at the school or support her education. The Dear Colleague letter makes clear that these students are to be welcomed into the school environment and afforded the dignity of being treated in a manner that acknowledges and respects their identity.

The Dear Colleague letter has its critics: Texas, joined by several predominantly southern states, has filed a lawsuit challenging the legality of the new Dear Colleague letter. And in a March 2015 ruling, U.S. District Judge Kim Gibson of the Western District of Pennsylvania dismissed a trans student's civil rights complaint, ruling that neither Title IX nor the U.S. Constitution's Equal Protection Clause require a school to permit a transgender student to use the restrooms or locker rooms appropriate to the student's identity. In this changing legal environment, the Dear Colleague letter provides helpful clarity while emphasizing the priority the Administration is placing on this aspect of its Title IX enforcement efforts.

In addition to the Dear Colleague letter, schools also have the benefit a helpful addendum to the letter containing detailed illustrations of policies and emerging practices that specific schools are adopting to accommodate the needs of their transgender and gender-nonconforming students. That addendum is available at: <https://www.justice.gov/opa/file/850991/download>.

**TRI-STATE 2016-2017
CALENDAR OF EVENTS**

Annual NCAA Update
Fall 2016, Petersen Events Center

**School Board and
Distinguished Educator
Banquet**
March 2017, Edgewood Country
Club

**Enhancing School
Governance and
Management**
March 2017, Edgewood Country
Club

**Dr. Jean E. Winsand Institute
for Women in School
Leadership**
April 2017, Edgewood Country Club

**Dr. Samuel Francis School
Law Symposium and Special
Education Workshop**
June 2017, The University Club

***Please check our website in the
upcoming months for new workshop
information!

**2016-2017 EXECUTIVE COMMITTEE
MEMBERS**

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

Linda Hippert, Executive Director, Allegheny Intermediate
Unit 3

Jill Jacoby, Superintendent, Fort Cherry SD

Michael Latusek, Superintendent, Diocese of Pittsburgh

David Lehman, Superintendent, Conemaugh Valley SD

Charles Mahoney, Executive Director, Intermediate Unit 1

John Mastillo, Superintendent, Blacklick Valley SD

Michelle Miller, Superintendent, Hopewell Area SD

Donna Nugent, Superintendent, Big Beaver Falls Area SD

Heidi Ondek, Superintendent, Quaker Valley SD

Gennaro Piraino, Superintendent, Franklin Regional SD

Philip Savini, Superintendent, Brownsville Area SD

Tracy Vitale, Superintendent, Seneca Valley SD

Diane Kirk, Director

Kelsey Cole, Administrative Assistant

EXECUTIVE COMMITTEE MEETINGS
Edgewood Country Club, 9am-11am

September 21, 2016 December 14, 2015
March 15, 2016 June 21, 2016

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

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

Transgender Student Rights: An Update

By Annemarie K. Harr, Esq.



Annemarie K. Harr

In our March article, we continued our updates on the quickly evolving law surrounding transgender students and the rights that these students maintain within the school setting. Since that time, the U.S. Department of Justice and the U.S. Department of Education have published a joint letter highlighting these rights, and discussing the steps districts must take in order to ensure their compliance with their legal obligations.

While this letter is not law, nor does it add requirements to applicable law, it is considered to be “significant guidance” and will carry substantial weight in determining whether applicable laws have been violated.

First, it is important to note that the letter succinctly defines the terms that are to be used in discussing transgender students, and in writing transgender policies. These definitions are as follows:

- **Gender Identity:** refers to an individual’s internal sense of gender. A person’s gender identity may be different from or the same as the person’s sex assigned at birth.
- **Sex Assigned at Birth:** refers to the sex designation recorded on an infant’s birth certificate should such a record be provided at birth.
- **Transgender:** describes those individuals whose gender identity is different from the sex they were assigned at birth. A transgender male is someone who identifies as male but was assigned the sex of female at birth; a transgender female is someone who identifies as female but was assigned the sex of male at birth.
- **Gender Transition:** refers to the process in which transgender individuals begin asserting the sex that corresponds to their gender identity instead of the sex they were assigned at birth. During gender transition, individuals begin to live and identify as the sex consistent with their gender identity and may dress differently, adopt a new name, and use pronouns consistent with their gender identity. Transgender individuals may undergo gender transition at any stage of their lives and gender transition can happen swiftly or over a long duration of time.

Under Title IX, a school may not exclude, separate, deny benefits to, or otherwise treat differently on the basis of sex any person in its educational programs or activities unless expressly authorized to do so under Title IX or its implementing regulations. This includes

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A school does not meet this requirement by providing an individual restroom or locker room for transgender students, as this will not be considered equal access under Title IX.

New FLSA Regulations to Take Effect in December

By Joseph D. Shaulis, Esq.



Joseph D. Shaulis

New federal regulations will require employers, including school employers, to either raise the salaries of some types of employees or pay them overtime wages.

Since the New Deal era, the Fair Labor Standards Act (FLSA) has generally required employers to pay employees a minimum wage, as well as time-and-a-half for more than 40 hours worked in a workweek. The FLSA exempts certain kinds of employees from this requirement – among them, those working “in a bona fide executive, administrative, or professional capacity.” But the FLSA leaves it up to the U.S. Department of Labor to define those terms through regulations.

The current regulations, in place since 2004, allow employers to classify employees in those categories as FLSA-exempt only if they are salaried and earn at least \$455 per week, or \$23,660 a year. (That was a big increase from the regulations in effect from 1975 to 2004, which set the minimum salary at only \$155 per week.)

On May 18, 2016, the Department of Labor announced new regulations that will more than double the minimum salary for exempt employees, boosting it to \$913 per week – or \$47,476 for a year-round worker. (That figure is based on the 40th percentile of earnings for full-time salaried workers in the lowest-wage U.S. Census region.) The new rules take effect on December 1, 2016. And after that, the minimum salary will be adjusted automatically every three years, starting in 2020.

To comply with the new rules, public and private school employers will have to either raise some exempt employees’ salaries to meet the higher threshold, or pay time-and-a-half for hours exceeding 40 in a workweek. Some employees classified as “administrative” who perform academic roles need only earn at least the same salary as “the entrance salary for teachers in the

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Transgender Student Rights, *continued*

the prohibition of transgender discrimination as a type of sex discrimination. In order to ensure that students are not being discriminated against on the basis of their gender identity, a school must make certain that transgender students be allowed to participate in activities and access facilities consistent with their gender identities. This includes access to restrooms and locker rooms of the gender that the student identifies with, and equal access to athletics consistent with the gender that the student identifies with. A school does not meet this requirement by providing an individual restroom or locker room for transgender students, as this will not be considered equal access under Title IX. A district may provide a private restroom or locker room, but it must be accessible to all students, and it should not be designated for any one group.

The Department of Justice and The Department of Education interpret Title IX's requirements to mean that as soon as a student or a student's parent make the school aware that the student will assert a gender identity that is different from previous representations or records, then the school must immediately begin to treat the student consistent with that identity. The Departments caution schools that this notification requirement cannot include a requirement to show any form of medical documentation or identification, and any such requirement could be a violation of Title IX. As a part of treating the student consistent with his or her gender identity, the school must address the student by the name chosen by that student if it is different from his or her given name, and must use pronouns that are consistent with the student's gender identity.

Moreover, schools must ensure a safe and nondiscriminatory environment for all students, including transgender students. If a school is aware that a student is being discriminated against on the basis of gender identity and this is creating a hostile environment, then the school must act swiftly and diligently to ensure that the harassment stops, and does not occur again. The failure to do so may result in a violation of Title IX.

Finally, nonconsensual disclosure of a student's personally identifiable information, such as a student's birth name or sex assigned at birth could violate FERPA. While a school may maintain these records, they should be kept confidential. Additionally, an eligible transgender student or a parent of a transgender student may request to change records in order to make those records consistent with the student's gender identity. Under FERPA, a school must consider the request for an amendment. If the school does not amend the record then it must inform the requestor, who will then be awarded a right to a hearing.

Based on these updates, it is recommended that school review and update their policies to ensure that all students are protected and not being discriminated against in anyway.

As always, do not hesitate to contact our office with any questions regarding this continually evolving area of the law. ♦

New FLSA Regulations, *continued*

educational establishment..." Other employees affected by the new rules may include:

- Those in areas such as finance, accounting, human resources, public relations, security and information technology.
- Certificated or licensed professionals such as counselors, nurses, social workers, therapists and athletic trainers.
- Directors, managers and supervisors in nonacademic departments such as maintenance, transportation and food service.

But it is impossible to tell from a job title alone whether an employee is FLSA-exempt; that determination can only be made by examining the employees' qualifications and actual job duties to see whether they fit into one of the exempt categories, as defined by the FLSA and Department of Labor regulations.

Not affected by the new rules are elementary and secondary teachers, who are FLSA-exempt regardless of how much they make so long as the primary function of their position is instruction. School employers should consult their solicitor or another attorney with expertise in wage-and-hour matters to determine what impact, if any, the new regulations will have on the client's workforce. The attorneys of Weiss Burkardt Kramer, LLC, are experienced in advising school districts, intermediate units, career and technology centers, and other educational entities regarding FLSA issues. We can help an employer determine whether a certain employees are FLSA-exempt based on their job duties or conduct a comprehensive FLSA compliance audit. For assistance, please call us at (412) 391-9890, or e-mail me (jshaulis@wbklegal.com) or my colleague Nicole Wingard Williams (nwilliams@wbklegal.com). ♦

To comply with the new rules, public and private school employers will have to either raise some exempt employees' salaries to meet the higher threshold, or pay time-and-a-half for hours exceeding 40 in a workweek.

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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.