



University of Pittsburgh

# THE FORUM

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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*

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## Tri-State Spring 2019 Event Calendar

### School Board and Distinguished Educator Banquet

March 7, 2019, Edgewood Country Club

Cocktails and Hors D'oeuvres: 5:30 p.m.

Program & Dinner: 6:30 p.m.

Entertainment to be provided by the Deer Lakes High School Jazz Ensemble

[Click here to register!](#)

### Free Workshop for Member Districts!

### “Windows of Opportunity: Prioritizing Public Education in Harrisburg and Washington”

Presented by Representatives from the Pennsylvania Association of School Administrators (PASA) and the Pennsylvania School Boards Association (PSBA)

March 8, 2019, Edgewood Country Club

Breakfast & Networking: 8:30 a.m.

Program: 9:00 a.m. to 11:30 a.m.

Presenters: **Mark DiRocco**, Executive Director, PASA & **Jonathan Berger**, Director of Government Affairs

[Click here to register!](#)

### Dr. Jean E. Winsand Institute for Women in School Leadership

March 28, 2019, Edgewood Country Club

Registration & Breakfast: 7:45 a.m.

Program: 8:15 a.m. to 2:30 p.m.

[Click here to register!](#)

### Dr. Samuel Francis School Law Symposium and Special Education Workshop

June 20, 2019, Edgewood Country Club

Registration, Breakfast & Networking: 7:30 a.m.

Program: 8:30 a.m. to 5:00 p.m.

Registration information to be posted in spring 2019.

# Green and Healthy Schools Academy

The Green and Healthy Schools Academy believes that every child deserves to attend schools that are healthy, high-performing, engaging, inspiring, and innovative. The Academy offers learning experiences for preK-12 educators and students that explore the areas of sustainability, equity, environmental justice, systems thinking, purposeful creation, design, and the built environment. The Academy is currently seeking participants for a new cohort this Spring!



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

## **Green & Healthy Schools Academy Launches Project Drawdown Teacher Cohort!**

Do you want to teach your students about climate change but are feeling overwhelmed by the enormity of the task? Green & Healthy Schools Academy is excited to launch a teacher cohort around the book, *Drawdown: The Most Comprehensive Plan Ever Proposed to Reverse Global Warming*. We are looking for teachers who want to approach this topic with curiosity, not fear, and develop lesson plans that support the solutions in this book. Join us this Spring as we engage in guided discussions, collaborative lesson planning, and create real change within our learning communities.

### **About Project Drawdown:**

*Project Drawdown is the most comprehensive plan ever proposed to reverse global warming. We gathered a qualified and diverse group of researchers from around the world to identify, research, and model the 100 most substantive, existing solutions to address climate change. What was uncovered is a path forward that can roll back global greenhouse gas emissions within thirty years. The research revealed that humanity has the means and techniques at hand. Nothing new needs to be invented, yet many more solutions are coming due to purposeful human ingenuity. The solutions we modeled are in place and in action. Humanity's task is to accelerate the knowledge and growth of what is possible as soon as possible. Source: [projectdrawdown.org](http://projectdrawdown.org)*

### **Who should apply?**

The cohort is open to any full-time K-12 educator with at least 3 years of teaching experience. Participants must have the support of their building administrator and be willing to develop and implement a minimum of (5) lessons in their classroom before the end of the 2018-2019 school year. Participants will be expected to document this process and make their work available for other teachers to use. Cohorts operate in a flipped classroom format; passive learning occurs outside of meeting time and in-person meeting time is used for activities, discussion, and hands-on support.

[Applications open January 2, 2019. Apply here.](#)

### **Benefits to Participants:**

As a cohort participant, you will have the opportunity to connect with colleagues and receive mentorship and guidance from Green Building Alliance staff as you develop the skills to teach about climate change and empower your students to implement these solutions. All cohort participants will receive a copy of the book, *Drawdown: The Most Comprehensive Plan Ever Proposed to Reverse Global Warming*.

### **Stipend:**

Upon completing the deliverables of the program and attending all cohort sessions, participants will be paid a \$500 stipend.

### **Cohort Schedule & Format:**

Cohort will meet monthly for a 2 hour in person meeting. Participants will need to be present at all sessions to be eligible for the full stipend. There will be a minimal amount of assigned reading and work required outside of the in-person meetings. (approx. 5 hours of month). Applicants should indicate their availability on the application and if accepted will be assigned to groups that work with their schedules. For example, two or three sub-groups may be created, each meeting on a different day and time of the week.

### **Questions:**

If you have any questions about the cohort, please contact Katie Lockley, Green & Healthy Schools Senior Director at [katiel@gbapgh.org](mailto:katiel@gbapgh.org)

# Tri-State & Local Education News

## K-12 Principal Certificate Program Supervisor of Curriculum and Instruction Certificate Program University of Pittsburgh

The University of Pittsburgh School of Education is accepting applications for the K-12 Principal certificate program and the Supervisor of Curriculum and Instruction certificate program. These 15-month programs offer face-to-face classes and online courses.

A master's degree is not required; however, credits for courses in the principal and supervisor certificate program can be applied to a Master of Education degree.

Learn more about our K-12 Principal Certificate program by [clicking here](#) or our Supervisor of Curriculum and Instruction program by [clicking here](#).

Online applications and requirements can be found at [www.education.pitt.edu/FutureStudents/AdmissionsProcedures.aspx](http://www.education.pitt.edu/FutureStudents/AdmissionsProcedures.aspx). **Deadline to apply: March 1st, 2019.**

## Honors for Tri-State School Districts

We congratulate the following school districts\* who were recognized by Niche.com for being among the top 50 in the state.

*Fox Chapel Area  
Hampton Township  
Mount Lebanon  
North Allegheny  
North Hills  
Peters Township  
Pine-Richland  
Quaker Valley  
South Fayette  
Township  
Upper St. Clair*

*\*Listed in alphabetical order.*

According to Niche.com, the 2019 Best School Districts ranking is determined by key statistics and data from the U.S. Department of Education. Ranking factors include state test scores, college readiness, graduation rates, SAT/ACT scores, teacher quality, public school district ratings, and more. [Read more on how this ranking was calculated.](#)

## HB 1745 Fact Sheets

Pennsylvania is currently considering legislation that will improve the chances of higher education success for students who are or were in the foster care system

[Click here for more information!](#)

Congratulations to Tri-State Executive Committee member, Dr. Gennaro Piraino, Jr., Franklin Regional School District Superintendent on being awarded the 2019 Pennsylvania Superintendent of the Year by PASA!

## Title IX News

### The Department of Education's Proposed Title IX Regulations Make It More Difficult for Schools to Respond to Sexual Harassment

Sexual harassment violates Title IX of the Education Amendments of 1972, which provides, “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 educational program or activity receiving Federal financial assistance.” 20 U.S.C. § 1681(a). However, according to the National Women’s Law Center, approximately 56% of girls and 40% of boys in grades 7-12 are sexually harassed in any given school year. For many students, especially students of color, undocumented students, LGBTQ+ students, and students with disabilities, the way a school responds to harassment determines whether the victimized student succeeds or fails in their educational goals.

Instead of rising to this challenge and addressing the pervasiveness of harassment in schools, Secretary of Education Betsy DeVos seeks to sweep sexual harassment under the rug and tie the hands of school administrators trying to create a safe, respectful school environment. The Department of Education’s new proposed Title IX regulations, published on November 29, 2018, would make it difficult for schools to adequately respond to sexual harassment that has continuing effects in the school setting. For example:

**The proposed rule would adopt such a narrow definition of “sexual harassment” that schools could not respond until it might be too late.** Specifically, the Department of Education has proposed redefining sexual harassment as “unwelcome conduct on the basis of sex that is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient’s education program or activity.” Under this definition, students would have to endure repeated and escalating levels of abuse, and schools would only be required to intervene when the sexual harassment had escalated to the point that its target was either pushed out of school or had lost the ability to participate and learn—that is, after the harm had already been done. In fact, schools would be *required* to dismiss complaints of sexual harassment that did not yet rise to such a level. By then, it might be too late—the student may no longer be eligible to attend a dream college, enroll in a certain course, or even graduate.

**The proposed rule would require schools to dismiss complaints of sexual violence that occur outside of a school program, including much off-campus and online harassment.** The Department of Education’s proposed rules would further narrow the definition of sexual harassment to only include conduct that takes place within a school’s programs or activities. In other words, if a student filed a complaint because she was sexually assaulted walking to school, or because she was harassed online while off of school premises, the *school would be required to dismiss her complaint*, even if such harassment had a continuing effect in the school setting.

**The proposed rule limits a school’s ability to provide meaningful supportive measures to students who have survived sexual harassment.** Student survivors of sexual assault need support to stay in school. Under the proposed rule, supportive measures must be “non-disciplinary,” “non-punitive,” “without fee or charge,” and “without unreasonably burdening the other party.” This means that schools may not be able to remove perpetrators from shared classes or offer other supportive measures that help students. As a result, student survivors may suffer even more harm, and schools would lose an important tool for containing the harm inflicted by harassers.

*(article continued on page 5)*

## Resources to Help Talk to Children after Tragedies

- **When your child is feeling anxious** – Reassure your child but don't deny the feeling. Caring adults should listen and explain that they will help the child work through their anxiety. It's also important to set a routine and stick to it as much as possible. [See Partners' anxiety resource for more.](#)
- **Crisis Text Line** – Crisis Text Line offers free 24/7 support to people in crisis, helping people with issues ranging from eating disorders to family crises to suicide and depression. Just text 741741 from anywhere in the USA to text with a trained crisis counselor.
- **The Sandy Hook Promise** urges parents and caring adults to teach the children in their lives to be “better bystanders” and to “say something” when they get wind of threats. The group's [“Say Something” campaign offers resources to help adults have conversations with the teens and preteens in their lives.](#) These potentially lifesaving conversations can teach young people to:
  - Recognize the signs and signals of potential threats
  - Take action with that information
  - Know that when they “Say Something,” they save lives.

(Resources shared by PSEA Partners for Public Education October 2018.)

## Title IX (continued from page 4)

Thankfully, these proposed regulations must go through a public comment period, officially known as a “notice-and-comment period,” before becoming law. This means that school administrators and faculty have an opportunity to voice their opinions about these proposed changes and explain why and how they would make it more difficult for schools to adequately respond to sexual harassment. To submit an electronic comment, go to <https://www.regulations.gov/comment?D=ED-2018-OCR-0064-0001>. To submit a written comment, mail your comment to: Brittany Bull, U.S. Department of Education, 400 Maryland Ave SW, Room 6E310, Washington, D.C. 20202. **The deadline for submitting comments is January 28, 2019.**

Tips for how to structure your comment:

1. Start with an Intro Paragraph: Give context for who you are and why you're commenting.
2. Be sure to include the Docket ID Number (ED-2018OCR-0064) and the RIN (1870-AA14) for this proposed rule at the top of your comment.
3. Share why YOU think this rule would hinder schools' ability to adequately respond to sexual harassment.

Thank you to the three law firms who contribute to 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*

**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.

## Safe2Say Program Launch, Federal School Safety Commission Recommendations & Related Developments

By Aimee R. Zundel, Esq.

*Much professional education has occurred on the topic of school emergency preparedness with the passage of Act 44 of 2018 and the launch of the Safe2Say Something Program.*

*This area continues to evolve. Here are the newest developments school administrators need to be aware of as we enter 2019.*



Aimee R. Zundel

### Safe2Say Launch

Act 44 of 2018, which was enacted June 22, 2018, created the "Safe2Say Something" program as a comprehensive, state-wide threat reporting system. Safe2Say is supported by a website, 24/7 hotline number, and mobile app. The program facilitates anonymous reports regarding individuals who may be at risk of hurting themselves or others. Once a tip is made, within moments the local school and law enforcement officials are notified so they may review the reported threat and take appropriate responsive action.

The PA Office of the Attorney General (OAG) will operate the program. Schools were required to submit their administrative contact for this program to the OAG by September 14, 2018.

A series of trainings and updates have come down the pike since that time, and the program is now on the brink of being put into effect. The launch date is currently set for January 14, 2019. More information is available at: <https://www.safe2saypa.org/>.

### Federal School Safety Commission Recommendations

On Tuesday, December 18, 2018, the Federal Commission on School Safety issued a new report regarding the issue of school safety and violence. A process that included formal meetings, school field visits, and listening sessions held in different areas of the country provided a foundation for the commission's report. The commission was established after the February 2018 shooting at Marjory Stoneman Douglas High School in Parkland, Florida.

In an effort to help prevent future tragedies, the commission set forth a number of policy recommendations, divided into three report sections. Section 1 covers preventative measures

*continued on next page*

## Aimee Zundel is Named Partner at Weiss Burkardt Kramer

*Weiss Burkardt Kramer LLC is pleased to announce that Aimee R. Zundel has become an Equity Partner with the firm. Ms. Zundel is an experienced school solicitor who has focused her practice on special education and student services matters.*

Ms. Zundel joined the firm as an Associate in 2008. She has represented the firm's school district clients as a general solicitor for many years, in addition to her student services-focused work. Ms. Zundel has extensive experience representing clients in special education cases through all levels of litigation, and in the scope of compliance complaints filed with state and federal agencies.

As a part of her services to school clients, Ms. Zundel routinely advises the firm's school clients on necessary Board policy revisions and development of new policies to address legislation and the changing demands of public education. She also advises clients on general school board matters, ranging from personnel and labor relations to collective bargaining and the Sunshine Act.

She is widely regarded for her knowledge in school and special education law, routinely presenting at local and national seminars. Among the topics she has presented include the Individuals with Disabilities Education Act (IDEA), federal nondiscrimination laws such as Section 504 of the Rehabilitation Act and Title IX, and the Pennsylvania Child Protective Services Law.

Ms. Zundel is a member of the Allegheny County Bar Association and the Municipal and School Solicitors section. She is also an active member of the Pennsylvania Bar Association and its Exceptional Children's Committee.

"Aimee is an outstanding attorney, she works tirelessly to defend and advocate for our clients." said Ms. Burkardt. "We are fortunate to have her as part of our team."

Ms. Zundel graduated from the University of Mount Union with a B.A. in Sociology. She obtained her law degree from The University of Pittsburgh in 2008, where she participated as Senior Research Editor for The University of Pittsburgh Law Review.

**For more information about Weiss Burkardt Kramer LLC, visit [www.wbklegal.com](http://www.wbklegal.com).**

## Safe2Say Program Launch, *continued*

such as bolstering mental health supports, effectively addressing cyberbullying, and utilizing suspicious activity reports and threat assessments in ways that enhance school safety. Section 2 of the report covers protection and mitigation methods, and discusses the topics of school safety staff, training, and best practices in building security. Finally, Section 3 of the report addresses response and recovery in the wake of school violence. It is in this section that the commission discusses the topic of active shooter preparedness and mitigation.

Notably, the report recommends a review of the Family Educational Rights and Privacy Act (FERPA) and guidance developed by the U.S. Department of Education to implement FERPA. The commission highlighted several exceptions to FERPA's general prohibition on the disclosure of personally identifiable information from school records – including the familiar “health and safety” exception. The “health and safety exception” carved out in the law permits the disclosure of personally identifiable information in case of an emergency, if disclosure is necessary to protect the health or safety of the student or others. The commission cited a need for further technical assistance to foster understanding among schools about when a school resource officer is considered a “school official with a legitimate educational interest” in information, justifying disclosure of information that could prevent a threat to the health or safety of individual students or the school community. The report also urges revocation of the Obama administration’s July 2015 “Rethink School Discipline” Resource Guide and encourages schools to consider arming school staff as a defensive measure. The commission’s full report can be accessed at: <https://www2.ed.gov/documents/school-safety/school-safety-report.pdf>.

## We’re Speaking...

- Attorney Jocelyn Kramer will be speaking on the topic of School Violence and Special Education at the 25th Annual School Attorneys Conference in Phoenix, Arizona on January 16, 2019.
- Attorney Ira Weiss will be presenting at PASBO’s 64th Annual Conference and Exhibits at the Hershey Lodge and Convention Center from March 5-8, 2019. The title of Attorney Weiss’ presentation is, “Bargaining Within Your Means: Managing Employment Costs in the Act 88 Arena.”
- Attorney Kramer will present two sessions, Investigating Discriminatory Harassment and Addressing Employee Misconduct - Special Educators, at the 40th Annual National Institute on Legal Issues of Educating Individuals with Disabilities in Orlando, Florida taking place May 5-8, 2019. Attorney Rebecca Hall will also be co-presenting with Dr. Jessica Dirsmith at the conference. The title of their presentation is, “What’s Trending in Emotional Disturbance Identification?”
- Attorney Hall will be co-presenting at the 2019 Annual Convention of the National Association of School Psychologists being held in Atlanta, Georgia from February 26, 2019 - March 1, 2019. The topic of the presentation will be “Ethical and Legal Considerations for Gifted Assessment of Diverse Students.”

## Other New Developments

Despite the views of the Federal Commission on School Safety, which urge arming of school staff, governing boards in Pennsylvania that take this step may face legal challenges.

For example, the Tamaqua Area School Board was recently challenged by its professional bargaining association after creating a policy which authorized employment of armed School Resource Professionals. In September of 2018, the Tamaqua Area board unanimously adopted a policy entitled “Standard Operating Procedures for Persons Authorized to Use Weapons.” The policy, among other more specific provisions, authorized identified “School Resource Professionals” to possess firearms and use deadly force in response to an immediate threat of death or serious bodily injury.

The School Resource Professional (SRP), as outlined in the training portions of the policy, would only have to be trained in accordance with the Lethal Weapons Act, rather than the Municipal Police Educator and Training Law. In practice, the policy permits teachers and other identified employees who are hired and designated as SRPs, to carry firearms on school property. In October, the board authorized a stipend of \$2,000 per year for staff who are employed as SRPs. The Tamaqua Education Association filed suit in the Schuylkill County Common Pleas Court challenging the policy on November 14, 2018. TEA asserts that the school board exceeded its express statutory authority by permitting non-police officers on staff to carry firearms, in view of the School Code’s provisions.

While the TEA’s legal challenge is still pending, school boards at this time lack specific precedent or legislative guidance on the issue of arming school personnel. The TEA’s lawsuit is the first legal challenge of its kind. It is clear, however, that school police officers are authorized to carry weapons and exercise lethal force where justified for the protection of self or others, in line with relevant school board policies, state and federal laws.

The attorneys at WBK understand that school safety is of paramount importance. We look forward to our continuing partnerships with school clients to meet legal obligations in this sensitive area. ♦

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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.*