



THE FORUM

University of Pittsburgh

The Tri-State Area School Study Council Newsletter

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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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Upcoming Events

We are planning the Fall 2022 calendar now. Please send any topic or speakers you are interested in attending at tristate@pitt.edu.

Dr. Samuel Francis School Law Symposium and Special Education Workshop

Held Virtually via Zoom
Thursday, June 23, 2022

All member district personnel can register at no cost.

[Check our website for updates and new workshops!](#)

2022-2023 Membership

Tri-State Area School Study Council would like to thank our membership for your continued support of our organization. We would not be able to put on the workshops, conferences, and networking events, both in-person and virtual without your help and support.

We hope that you will be able to renew your membership for the 2022-2023 membership year. Invoices for renewal have been sent to current members. If your district is not a member or know of anyone who would like to join us, please reach out and we can provide information to join Tri-State.

We encourage you to continue to access our workshops and programs as you move into the new school year. Please continue to send any job openings you have as it helps those looking for new opportunities. Do not hesitate to contact us at tristate@pitt.edu if you have any questions. We look forward to having you as members for years to come. ▲



University of Pittsburgh

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

Spring Workshop Recap

73rd Annual School Board and Distinguished Educator Banquet

The annual Educator Banquet provides a venue to recognize outstanding achievement in recognition. This year, Tri-State received strong nominations for individuals and boards. This year's winners have displayed commendable service to the schools they represent. Our executive committee presented these awards recognizing the great achievements of the winners as they have provided a great example for others to follow in the future.

Distinguished Educator Award

Tri-State annually recognizes outstanding administrators, retired educators and University faculty for their contributions to education with the Distinguished Educator Award. This year's recipient, selected from a pool of outstanding candidates, is **Dr. Tracy Vitale**, Superintendent of Seneca Valley School District. She is recognized for her work building and maintaining relationships across communities to improve the staff and students of the district. She consistently works to mentor others, serving as an exemplary role model, showcasing the responsibilities of the superintendency.



Dr. Tracy Vitale

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. To be considered for the award, school organizations must demonstrate exemplary practices of school boards and school district personnel in addressing important issues that improve schooling for students.

Two boards were selected to receive the D. Richard Wynn Award: Slippery Rock Area School District and Baldwin-Whitehall School District School Boards.



Slippery Rock Area School District Board

The Slippery Rock Area School Board (left) is commended for their consistent foresight in decision-making and problem-solving. This has demonstrated their commitment to the ongoing improvement in all aspects of their district. The board's persistent communication with administration and the community has allowed them to support the students through difficult challenges and decisions.

The Baldwin-Whitehall School Board (right) is recognized for their willingness to compromise on difficult issues in their district. This shows their ability to set an example for the entire community by working well together through a healthy exchange of ideas. Their ongoing collaboration and support of the community propels Baldwin-Whitehall to exceptional accomplishments.



Baldwin-Whitehall School District Board

Spring Workshop Recap

Dr. Jean E. Winsand Workshop for Women in School Leadership

Held April 7, 2022

“Making a Difference Every Day:
Leading with Hope and Optimism in Times of Challenge and Adversity”

This year, Tri-State Area School Study Council presented the Dr. Jean E. Winsand Workshop for Women in School Leadership in person for the first time in two years. The networking opportunities and community that makes this event so successful was able to resume.

The presentations were focused on facing adversity and challenges as school administrators. Our presenters all spoke on different ways to manage these issues and do so in productive ways. The program was planned and presented by Dr. Rachel Fischbaugh, Dr. Linda Hippert, Dr. Heidi Ondek, Amy Pfender, Amy Mathieu, Dr. Mary Catherine Reljac, Dr. Sarah Shaw, and Dr. Sharon Suritsky.

This event is held every year in honor of the late Dr. Jean E. Winsand. She was an associate professor in both the Departments of Instruction and Learning and Administrative and Policy Studies in The University of Pittsburgh’s School of Education. She was a woman of integrity, determination, professionalism, and absolute passion for quality teaching and leadership. While Dr. Winsand was uncompromising on standards, especially in the service of learners and communities, she was incredibly accommodating in the support of learning and growth for professionals in the field. She fervently advocated for more females in administration at both the University level and in K-12 schools. Dr. Winsand was a consummate professional, but was also equally very human. She was a colorful woman who was accessible, fun-loving, and laid back. Her legacy is a reminder of our constant roles as learners, teachers and leaders.

Dr. Jane Bovalino, Superintendent, Rochester Area School District is the 2022 recipient of the Jean E. Winsand Distinguished Woman in Education Award in recognition of her outstanding work in her field throughout her 33 years as an educator and 22 years as an administrator. Dr. Jackie Removcik, Director of Curriculum, Instruction and Assessment, Hampton Township School District is the 2022 Jean E. Winsand Emerging Woman in Education recipient honoring her great work though the start of her career. Both are examples of leaders in education and consistently help teach and support those around them.



Dr. Jane Bovalino,
Jean E. Winsand Distinguished Woman in Education



Dr. Jackie Removcik,
Jean E. Winsand Emerging Woman in Education

Update from Green Building Alliance

The Biden-Harris Action Plan for Building Better School Infrastructure



On April 4th, the Biden Administration announced a \$500 million grant program to improve energy efficiency in public schools. Per the press release, the goal is to, “upgrade our public schools with modern, clean, energy efficient facilities and transportation—delivering health and learning benefits to children and school communities, saving school districts money, and creating good union jobs.” This translates to improvements to HVAC systems, lighting, insulation, and more!

More importantly, The Biden-Harris Action Plan for Building Better School Infrastructure will:

- Invest in More Efficient, Energy-Saving School Buildings
- Improve Classroom Air Quality through the American Rescue Plan
- Help Schools Access Resources and Best Practices
- Expand Clean and Safe School Transportation
- Support for Rural, Tribal, and Puerto Rican Schools

GBA aims to engage and support western PA K12 school administrators to position their districts to capture federal and state resources. Our work includes educating stakeholders about the importance of green, healthy, and high-performance building practices; assessing and developing building improvement project scopes of work; engaging service providers; identifying and applying for funding resources and writing letters of support. If your school needs technical assistance, please contact ramonac@gbapgh.org or chrisc@gbapgh.org to set up a consultation.

Resources:

[Press Release](#)

[Reference Guide for Indoor Air Quality in Schools | US EPA](#)

[Financial Trends in Local Schools' Covid-Aid Spending - FutureEd \(future-ed.org\)](#)

[White-House-School-Infrastructure-Toolkit-04.04.22.pdf \(whitehouse.gov\)](#)

[Efficient and Healthy Schools | Department of Energy](#)



Tri-State News

It was recently announced to the Executive Committee that I will be retiring from the University of Pittsburgh at the end of August. The posting for the role of Director of Tri-State Area School Study Council will be available at join.pitt.edu in the near future. It has been my pleasure to be the director of this organization for the past 16 years. I encourage you to look carefully at the opportunity to become the next leader of this organization.

- Dr. Diane L. Kirk

Former Distinguished Educators

At the annual Distinguished Educators Banquet, we recognize the former recipients of the Distinguished Educator Award. This year, 10 Distinguished Educators were able to attend the banquet to support the winners of this year's awards.

Left to right: Dr. Tracy Vitale, Dr. Heidi Ondek, Dr. Brian White, Dr. Thomas Ralston, Dr. Bille Rondinelli, Dr. Bart Rocco, Dr. Robert Paserba, Dr. Diane Kirk, Dr. Jerry Longo, Dr. James Manely



- Samuel N. Francis, 1981
- D. Richard Wynn, 1982
- Philip Phelps, 1983
- Harry R. Faulk, 1984
- James M. Burk, 1985
- Nick J. Staresinic, 1986
- Richard C. Wallace, Jr., 1987
- Wayne Doyle, 1988
- Dennis E. Murray, 1988
- Edgar J. Holtz, 1989
- Jean E. Winsand, 1990
- Louise Brennen, 1991
- Philip S. Boggio, 1992
- Helen S. Faison, 1993
- Charles J. Gorman, 1994
- R. Gerard Longo, 1995
- Joseph S. Werlinich, 1996
- Frederick Smeigh, 1997
- Joseph Lagana, 1998
- William Pope, 1999
- Patricia Homer, 2000
- Samuel J. Craighead, 2001
- Glenn F. Smartschan, 2002
- Neal V. Musmanno, 2002

- Reggie Bonfield, 2003
- Blair Kucinski, 2004
- Diane L. Kirk, 2005
- Donald A. Lee, 2005
- Robert M. Post, 2006
- Frank C. Prazenica, Jr., 2006
- James C. Manley, 2007
- Robert L. Paserba, 2009
- Anne E. Stephens, 2010
- Linda Hippert, 2011
- Patrick O'Toole, 2012
- John DiSanti, 2013
- Joseph Clapper, 2014
- Bart Rocco, 2015
- Bille Rondinelli, 2016
- Thomas Ralston, 2017
- Brian White, Jr., 2018
- Heidi Ondek, 2019
- Timothy J. Steinhauer, 2020
- Tracy Vitale, 2022

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.*

Universal Masking: Where Are We Now?

by Jocelyn P. Kramer, Esq.

This school year started with a variety of masking policies implemented by school districts across Pennsylvania. Many districts allowed for optional masking for students and staff while others required masking for an array of reasons. The differing policies resulted in multiple lawsuits with conflicting outcomes, including three local suits initiated in late August. In a case involving North Allegheny School District, Judge Horan of the Western District Court, a federal court, ordered North Allegheny to revert to a mandatory universal masking policy. In a case concerning Canon-McMillan School District, Judge Ranjan of the Western District Court declined to require universal masking. In a Peters Township School District case, the Washington County Court of Common Pleas, a state court, rejected a request for an injunction to prevent the implementation of a universal masking policy.

Within a week or less of these varying decisions, Pennsylvania's Acting Secretary of Health issued a universal mask mandate for schools. Ultimately, the statewide mandate was overturned on procedural grounds with two options for the Department of Health to lawfully enact a mask mandate for schools.

Once the state did not pursue another mandate through the correct process, school districts began lifting their local mandates. In two local districts where the school boards voted to make masks optional, groups of plaintiffs identifying as medically fragile sued the school districts claiming the policies violated the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. In another case involving North Allegheny, Judge Horan granted a Temporary Restraining Order (TRO) and required that the universal mask mandate be reinstated pending a hearing. In a case against Upper St. Clair School District, Judge Stickman, also of the Western District, denied the TRO and Preliminary Injunction without a hearing. Both cases were appealed to the Third Circuit Court of Appeals. While these Western District cases were pending before the Third Circuit, two similar cases from the Eastern District of Pennsylvania, where preliminary injunctions kept local school mask mandates in place, were also appealed to the Third Circuit.

The crux of the plaintiffs' argument in the North Allegheny and Upper St. Clair cases was that universal masking is the only reasonable accommodation under the ADA and Section 504 that would allow medically fragile students to access their in-person education while the County was designated as having a "high" or "substantial" level of COVID-19 community transmission. Before any decision on the merits could be reached by the Third Circuit, the CDC updated its guidance. The County was redesignated in the new "low" category and the courts dismissed the cases. Neither school district was provided with the opportunity to consider reasonable accommodations for the individual plaintiffs prior to the initiation of the lawsuits. In Upper St. Clair, the individual plaintiffs were never even identified to the school district so that the process for assessing reasonable accommodations under Section 504, the ADA, and/or the

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Jocelyn Kramer

Using IEP and 504 Processes to Ensure that In-Person Learning Can Continue for All Students

By: Lynne P. Sherry, Esq.

After changes to masking guidelines were issued by the Centers for Disease Control and Prevention (CDC), the U.S. Department of Education, Office of Special Education and Rehabilitative Services (OSERS), released a letter providing guidance to ensure that students with disabilities continue to receive safe, in-person learning and supports. Key points from the letter are highlighted below, and the full letter can be accessed here: <https://www2.ed.gov/documents/coronavirus/letter-to-educators-and-parents-regarding-new-cdc-recommendations-03-24-2022.pdf>.



Lynne Sherry

The IDEA requires that schools address the school-related health needs of eligible students with disabilities who are at increased risk of severe illness from COVID-19. IEP/504 teams may consider including health plans addressing, for example, sanitizing or avoiding shared use of personal and classroom items, and may also address continuing school-wide layered prevention strategies as part of a student's IEP or Section 504 Plan.

Under Section 504, school districts must make reasonable modifications when needed to ensure equal access for students with disabilities, absent a showing that such modifications would constitute a fundamental alteration or

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WBK Managing Partner M. Janet Burkardt to Retire June 30, 2022

Managing Partner, M. Janet Burkardt, will retire from WBK after a 22-year career there, starting as an Associate and completing her tenure as the firm's Managing Partner. Attorney Burkardt focused her solicitor practice on tax and real estate matters. She developed a statewide practice handling countywide reassessments and commercial tax assessment matters. She was instrumental in the creation of Weiss Burkardt Kramer LLC in 2014 and managing the firm's growth to become one of the region's top municipal and educational law firms and tax collection practice. Attorney Aimee Zundel will assume the role of Managing Partner on July 1, 2022. ♦



M. Janet Burkardt, Esq.

In-Person Learning, *continued*

undue burden. Depending on individual circumstances, a school may decide that some degree of masking, whether for an individual student or others in the school setting, may be necessary as a reasonable modification to ensure that students with disabilities have equal access to in-person learning.

As the use of masks decrease, schools may decide to increase their use of testing as a core safety and prevention strategy. One approach is through Test to Stay. Additionally, the CDC is making rapid tests available to schools each month for free through our state health department.

The CDC continues to recommend additional prevention strategies to ensure the health and safety of students in school, including physical distancing, handwashing and respiratory etiquette, staying home when sick and getting tested, and cleaning and disinfection.

In adopting these strategies to serve all students, schools must be cautious not to single out or identify students with disabilities. Students with disabilities should not be placed in a segregated setting away from peers without disabilities as the only means to safely deliver FAPE. IEP/504 teams may need to be creative in decision-making, to promote maximum inclusivity for students with disabilities. Where remote learning may be required, teams should continue practices to ensure that all students have access to remote learning and remain engaged and connected.

Our attorneys are available to work with you to ensure appropriate implementation of this OSERS guidance. If you should have any questions, please do not hesitate to contact us. ♦

Universal Masking, *continued*

IDEA could be initiated. Although both cases were dismissed as moot, the plaintiffs in each case have sued, seeking over \$100,000 in attorney fees. Decisions on the attorney fees have not yet been issued by the court.

In a slightly different mask-related case, five school board members in the West Chester Area School District were temporarily removed from the school board for allegedly failing to perform their school board duties by not addressing parent objections to the local mask mandate. The board members have been reinstated pending further court hearings.

Questions regarding school mask mandates remain unresolved. Additionally, courts across the United States are preliminarily split over whether universal masking is a reasonable accommodation required by the ADA and Section 504. We are tracking these cases as they continue and anticipate that similar suits could re-emerge in the future. Consult with your Solicitor or the attorneys at WBK if you have questions on how to move forward while navigating this unsettled issue. ♦

We're Speaking...

- Attorneys Jocelyn Kramer, Aimee Zundel, Megan Turnbull, Annemarie Harr, and Lynne Sherry will be presenting at the Dr. Samuel Francis School Law Symposium & Special Education Workshop being held virtually on June 23, 2022. Attorney Kramer will be providing case law updates and speaking on the issue of universal school mask mandates. Attorney Turnbull will be discussing the topic of "Navigating National Politics in Public Schools." Attorney Zundel is slated to cover the issue of "Tracking Child Find, Evaluation, and Reevaluation Compliance Post-COVID School Closures." Attorneys Harr and Sherry are presenting, "You're on Mute: Ensuring FAPE and Meaningful Participation in an Increasingly Virtual World."
- Attorney Megan Turnbull was elected as Chair of the Municipal Law Section of the Pennsylvania Bar Association beginning May 2022. The Section studies legal issues in the field of municipal law, including laws pertaining to school districts and authorities; informs members of relevant developments, and, where necessary, proposes and supports changes in the law governing local government.

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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.