



# bulletin

*The leading public education magazine in Pennsylvania*

## RELATIONAL ADVOCACY 10

## SUFFRAGE, CIVICS AND STUDENTS IN 2020 14



Book Review: *Grit*

Designating a leave  
as an FMLA leave



## SPRING LEGAL ROUNDUP

MARCH 4-APRIL 8, 2020

Learn important updates on significant developments in school law.



## SECTIONAL MEETINGS

MARCH 18-31, 2020

Hear updates affecting public education content from statewide experts, district practitioners and PSBA government affairs staff.



## ADVOCACY DAY

MARCH 23, 2020

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## SOLICITORS SYMPOSIUM

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Pennsylvania School Boards Association

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# UPCOMING PSBA EVENTS



Stay tuned for details  
about the

# 125th

# Anniversary Gala

hosted at the Hershey Lodge  
during the School Leadership Conference.





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inside **features**



**Relational advocacy**

When most people think of advocacy, they envision a phone call or email to a legislator, one of hundreds meant to let them know that attitudes are strong about an issue. They might also think of a meeting where a hurried legislator quickly must be persuaded to view things a certain way – and act. But often, it also involves simple connections, subtle persuasion and good information provided to lawmakers and public officials so they can take action and/or informed positions that benefit students.

**BY JIM PATERSON**

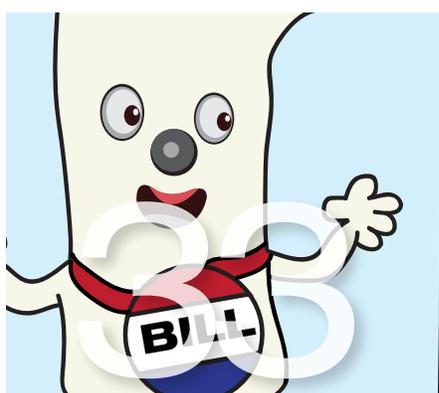
**Suffrage, civics and students in 2020**

Of the U.S. Constitution's 27 amendments, at least six strongly correlate to expanding the voting rights of citizens, yet Americans have a historically low participation rate in elections. During a presidential election, on average, about half of eligible voters exercise their right. Americans are also highly polarized in their political leanings. However, some organizations, teachers and schools are trying to change this narrative. Through increased student engagement and education surrounding suffrage and civics, there is hope that the next generation of voters will be more invested in putting country before party.

**BY SEAN RUCK**



## inside departments



### **4** from the top

PSBA President Eric Wolfgang and PSBA CEO Nathan Mains discuss the importance and impact of public education advocacy.

### **5** bulletin board

A collection of newsworthy items, brief updates, announcements and even a quick quiz to test your knowledge of the Keystone state.

### **9** ICYMI

A snapshot of recent resources, in case you missed it.

### **18** 2 months 1 page

Who has the time? Now you do. This feature highlights some of the major events impacting public education during the last few months.

### **21** hill talk

Sen. Scott Martin (R-Lancaster – part) discusses Senate Bill 530, school safety and tips for effective advocacy.

### **22** member profile

Meet Dr. Connie Nichols, a school director from Grove City SD.

### **23** guest column

Guest columnist Adam Welteroth, school director at Williamsport Area SD, talks about advocacy efforts and district impact.

### **26** making money count

Learn more about arbitrage rebate management.

### **29** by the numbers

Compare your district's pupil/staff ratios.

### **33** bright ideas

Meyersdale Area Elementary School combines civics education with innovation.

### **35** it's the law

Understand legal considerations for designating a leave as an FMLA leave.

### **42** Q&A

Get answers to some of the most commonly asked questions related to school governance.

## Defining advocacy

By Eric Wolfgang, president



**W**ebster's Dictionary defines advocacy as "the act or process of supporting a cause or proposal: the act or process of advocating." This implies that some action must occur. One of PSBA's most important roles is to advocate for those issues the membership has determined to be important to the organization, as outlined in the platform.

The platform is the guiding document that allows PSBA's Government Affairs staff to confidently approach lawmakers on a variety of issues that may be proposed as legislation by either the PA House or Senate. Our platform may oppose certain legislation (new, unfunded mandates) or support that which would be beneficial to school districts (eliminating prevailing wage requirements). However, PSBA staff cannot effectively advocate without your help. It is extremely vital for you, the members, to advocate to your individual legislators, bringing data and examples as to how existing or proposed legislation affects your district both positively and nega-

tively. Grassroots advocacy is the strongest and most effective advocacy there is.

While PSBA is unique in that we have a sole mission and purpose of advancing public education, the association is sometimes viewed as just another lobbying group. However, we are also elected officials, and therefore, are equals with our elected legislators. We need to use our collective voice effectively and work collaboratively with our legislators to help craft legislation which benefits all students throughout the state. Work with your assigned Advocacy Ambassadors to get legislators into your school buildings where you can show them, firsthand, all the great things happening in public education. We need to continue to educate them on the issues and how we are serving the needs of all students.

I urge you to attend our annual Advocacy Day coming up on March 23 at the Capitol. It is a unique and wonderful experience to meet your legislators and school directors from across the state and advocate (take action) together on those issues that are near and dear to us all. I look forward to seeing you on March 23!

## Your voice matters

By Nathan G. Mains, chief executive officer

I have spent the vast majority of the last 25 years involved in advocating for several great nonprofits and associations. While the issues have varied greatly – from disease prevention and health to disabilities and education – the work of advocating has remained the same. Even in light of great advances in the tools of lobbying and advocacy, the success of any initiative always comes back to the people involved in pushing for the change.

PSBA does a tremendous job advocating for school boards and their districts. We employ some of the best lobbyists and use the latest grassroots tools. Make no mistake, our people and technology make a difference every day. But, the true difference-maker is you – the member, the parent, the citizen and the voter.

I have been fortunate to advocate for some great (and important) issues that we have won despite possessing the weaker position on the issues. I have also been a part of some very disappointing legislative losses where we clearly were right on the facts. In both cases, it boiled down to our grassroots advocates. Were they making contact with their local officials? Were they coming to Harrisburg in force to demonstrate their passion for the issue? Were they able to make a compelling case with facts AND stories from their local communities about those impacted?

In short – for public education to truly win the day in Harrisburg, it takes your involvement, your passion and your commitment. Our annual day on the Hill is another opportunity to truly make an impact. Your active participation is what it will take for all of us to be successful and for public education to win for all students! **B**



## 2020 State of Education report to be released at Advocacy Day

Letters, emails and social media can be effective ways to reach legislators, but nothing beats a face-to-face meeting. On March 23, PSBA will join with Pennsylvania Association of Intermediate Units (PAIU) and the Pennsylvania Association of School Administrators (PASA) to strengthen our voice in support of public education at Advocacy Day. PSBA members who attend will meet with legislators in their offices at the Capitol after a briefing at the State Museum of PA on the three areas of focus for the day:

- Charter school funding reform
- Basic education funding and special education funding
- Funding for PlanCon

At last year's event, PSBA asked attendees why participating is so beneficial for school directors and their districts. Many said that combining voices on a few important issues had a greater impact on lawmakers. "Advocacy Day is an opportunity for us to say, although there's 500 school districts, we all have some common needs, some common things we need to get accomplished, which is obviously taking care of our students and providing the best education that we possibly can," said Bob Musantry, board president of the Palisades School District. "That takes dollars and it's important to come out here and make it known that we need help. We can't do it all ourselves, locally."

David Baugh, superintendent of the Centennial School District, agreed. "There's a strength in numbers. Our elected leadership often pay attention to small shifts, and what you're seeing here is not a small shift but a big shift," he said. There's over 200 of us here from across the state advocating with our elected leaders for public education, and each year that number grows."

In addition to meetings, a press conference will be held at 1:00 p.m. in the Capitol Rotunda, during which copies of the 2020 State of Education report will be released. The report also will be available on [psba.org](http://psba.org). Now in its fourth year, The State of Education is a comprehensive compilation and evaluation of timely data related to public education in the commonwealth. Data reported comes from publicly available sources and from a survey to chief school administrators, which had a 65% response rate.

To register for Advocacy Day and learn more, visit [psba.org](http://psba.org). After registration, PSBA will schedule attendees' meetings with legislators.



## PSBA Museum spans 125 years

If you're near PSBA headquarters in Mechanicsburg, stop by to see a curated collection of artifacts from PA school districts and the association's archives. The 125th Museum is one more way to celebrate PSBA's quasiquintennial anniversary in 2020. Items include photos of past PSBA office locations and former executive directors, samples of PSBA publications and a colorful array of branded items through the decades. Artifacts from the museum will also be featured on the 125th website: [psba125.org](http://psba125.org).

### PSBA timeline

1937

Preston O. Van Ness is named first full-time executive, and the first issue of the *Bulletin* magazine is published.

1940

PSBA helps found the National School Boards Association.

1959

PSBA establishes permanent headquarters at 410 N. Third Street in Harrisburg.

#### Significant events impacting education:

WWII (1939-1945); passage of Act 56 of 1939 which allowed for school boards to join school directors' associations and allowed charging of membership dues; and the decision issued in *Brown vs. Board of Education* (1954).

**89%** of school districts currently offer a full-time cyber education program  
Of those school districts, **54%** administer their own cyber program

2020 State of Education report



## Member task forces address top issues

In an effort to drive change on crucial issues affecting public education, PSBA created three member task forces focused on mandate reform, charter school legislation, and property tax reform. Each group was asked to review the topic, discuss and propose solutions, and possibly submit recommendations for PSBA platform revisions. Look for the mandate task force to release its report and recommendations this spring. The charter and tax reform task forces are expected to follow later this year.

### Top five budget pressures:

- 70%**  
Charter school tuition
  - 55%**  
Special education costs
  - 45%**  
Pension costs
  - 40%**  
Inadequate state funding
  - 19%**  
Health insurance increases
- 2020 State of Education report



### Question of the issue:

## What is your favorite place on the campus of your school entity and why?

The school cafeteria is my favorite place to interact with students as this is an informal setting where they share stories with me outside of my “regular” environment.

**Dr. Barbara Parkins**  
superintendent,  
United School District (Indiana Co.)

I love to visit the classrooms of the graduating class of 2032. If you start to question why we do what we do as school board directors, I urge you to visit a kindergarten classroom! I love observing the pure innocence and sharing in the excitement and constant questions that occur in those rooms.

**Art Levinowitz, Ph.D.**  
school director,  
Upper Dublin School District;  
board president, Eastern  
Center for Arts and Technology

### Next question:

## What is one project recently funded by your district’s education foundation and how has it benefited students?

To submit answers to the “Question of the issue,” send an email to Jackie Inouye at [jackie.inouye@psba.org](mailto:jackie.inouye@psba.org) by March 23, 2020. Submissions should be kept to 50 words or less.



## Governor announces 2020-21 state budget plan

On February 4, Gov. Tom Wolf delivered his state budget address to the General Assembly. The \$36.1 billion proposal is an increase of 4.2% over the current year. For education, the new spending plan proposes an infusion of \$405 million, with increases in the basic subsidy (\$100 million) and special education (\$25 million) line items and the remaining \$280 million coming from projected savings gained from proposed charter school funding reforms.

Other education-related budget highlights include legislation for charter funding reform, a proposal of \$1 billion for remediation of lead and asbestos in schools and other public structures, and a call for an increase in the minimum starting salary of teachers and for a new mandate for all school districts to provide universal free full-day kindergarten.

For more details and analysis on the governor’s budget plan access these PSBA resources:

- Gov. Wolf and CEO Nathan Mains budget talk video – on PSBA’s YouTube channel
- Budget Proposal webcast with PSBA Government Affairs – on myPSBA
- February 4 Special Legislative Report – on PSBA.org
- *Video Edition* episode 3 with Budget Secretary Jen Swails – on PSBA’s YouTube channel

## New report addresses suicide prevention in schools

In 2019 Gov. Wolf formed the Pennsylvania Statewide Suicide Prevention Task Force, to help to reduce suicide and fight the stigma associated with suicide, suicide attempts, and mental health issues. The task force recently issued an initial report that contains key themes to inform the commonwealth's overall prevention strategy. The report is based on 10 public listening sessions held around the state, where more than 800 people shared how suicide has impacted their lives and their recommendations for improving prevention efforts.

Mental health in schools was one of the main areas that emerged from the listening sessions. According to the report, participants highlighted the roles of educators and schools as important partners in preventing and addressing suicide and mental health. These themes emerged from their input:

- Emphasize early identification and intervention of mental health challenges for young children.
- Include tailored mental health and wellness education for school-aged youth as a core part of the health curriculum.
- Examine the availability and extent of mental health screening and services provided in school and the referral process for community-based mental health services.
- Provide training on mental health and wellness and suicide prevention to adults who interact with children in schools.
- Increase the allocation of school safety resources towards intervention, including school counselors, social workers and nurses.

Next, the task force plans to develop a four-year plan, which will be open for public comment, followed by an updated final plan with feedback incorporated. Read the full report at <https://www.dhs.pa.gov/Services/Assistance/Documents/Suicide%20Prevention/PA%20Suicide%20Prevention%20Task%20Force%20Initial%20Report.pdf>.



## School Director Recognition Month resolution

On January 31, the Senate unanimously adopted a resolution sponsored by Sen. Kristin Phillips-Hill (R-York; pictured, center) officially recognizing January as School Director Recognition Month. Also pictured are PSBA President Eric Wolfgang and other member school board directors, who were present at the Capitol for the event. School Director Recognition Month has been formally recognized by either a governor's proclamation or a House or Senate resolution for several decades.

## Keystone Quiz



- 1 What year was the first school code adopted?
- 2 In 1928, what was the average yearly earning of teachers and principals?
- 3 What year was the first TV used in classrooms?
- 4 What act in 1917 provided the basis of vocational education policy?
- 5 What was the shape of some early school buildings?

- Answers**
1. 1911
  2. \$1,364
  3. 1938
  4. Smith-Hughes Act of 1917
  5. Octagon

### Top three challenges:

**72%**

Budget pressures

**28%**

Recruiting/Retaining teachers

**24%**

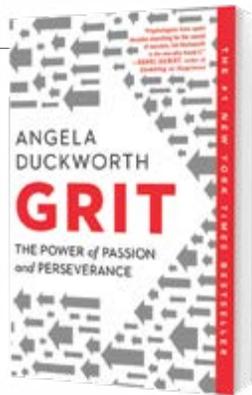
School safety and security

2020 State of Education report





For more information about her book and research, listen to our Keystone Education Radio interview with Angela Duckworth at [keyedradio.org](http://keyedradio.org).



## Grit: The Power of Passion and Perseverance by Angela Duckworth

Published by Scribner, 2016

Reviewed by Mackenzie Arcuri

West Point cadets, Scripps National Spelling Bee champions, world-renowned chefs, Olympic athletes, Nobel Laureates, Army

Rangers and distinguished CEOs — what do these individuals have in common? Did talent, opportunity or destiny help them achieve their high status? What if the commonality of these individuals is shared with public school students across the country?

According to pioneering psychologist and best-selling author Angela Duckworth, the parallel between these individuals is grit. Grit, as defined in the book of the same moniker, is a combination of passion and perseverance. Duckworth has spent her entire career as a psychologist compiling evidence that this quality, and how much of it an individual possesses — not solely talent, destiny or intelligence — is a reliable predictor of high achievers.

In *Grit: The Power of Passion and Perseverance*, Duckworth chronicles the journey of her research, the influential individuals she has encountered and the lessons she has learned. While these lessons provide valuable takeaways for any individual, they are especially pertinent for education stakeholders, both personally and professionally.

This may be because Duckworth herself is an educator. She first witnessed students employ effort to turn their potential into achievement as a college student teaching summer enrichment courses to youth with disadvantaged backgrounds. Later, as a public school teacher, she realized that grades of her most proficient students were being surpassed by pupils who were not as adept but applied themselves more than their peers.

With entertaining and inspiring narrative, Duckworth highlights the harm of self-fulfilling prophecy and dispels the myth of natural talent while seamlessly weaving together the importance of interest development, the power of failure, and the ability of culture to shape our identity. Her insights into perseverance over adversity, how perspective gives way to purpose, and the tie between deep support and relentless challenge make this a must-read for teachers, education stakeholders and parents.

**Author Bio:** Angela Duckworth is co-founder and CEO of Character Lab, a nonprofit that uses psychological science to help children thrive, and a Christopher H. Browne Distinguished Professor of Psychology at the University of Pennsylvania. Angela has received numerous awards for her contributions to K-12 education, is a best-selling author and gave one of the most-viewed TED Talks of all time. To read her full bio, visit [angeladuckworth.com](http://angeladuckworth.com).

All book reviews are the personal and subjective perspectives of the reviewer. All books reviewed are selected by PSBA staff and are relevant to education issues, but content is not necessarily endorsed by PSBA.

### Biggest challenges in operating a cyber program:

**34%**

Limited resources

**30%**

Attracting students to the program

**17%**

Lack of experience operating a cyber program

**16%**

Internet access/connectivity

**11%**

Other

2020 State of Education report





# KEYEDRADIO.ORG

## ON KEYSTONE EDUCATION RADIO

### Communicating Without Words

Social psychologist, bestselling author, Harvard lecturer and TED talk presenter Dr. Amy Cuddy shares her expertise on nonverbal communication and its influence in the school atmosphere.

### Different, Not Deficient

Author and advocate Jonathan Mooney talks about his book *Normal Sucks* and his journey of growing up with a learning difference.

### Student Voice at PPS

Asia Mason, project manager of student voice with the Pittsburgh Public School District (PPS); Sam Bisno, a senior at the Barack Obama Academy of International Studies; and Prishti Tyagi, a sophomore at Pittsburgh Science and Technology Academy; discuss student voice in decision-making.



## ON VIDEO EDITION

### Episode 26 (2019): Community relations resources for school leaders

Learn how to access training that can increase school directors' skills in effective communication with the public and how to leverage the Success Starts Here public awareness campaign to share your schools' positive news statewide.

### Episode 1 (2020): PSBA celebrates 125 years

PSBA commemorates 125 years of serving school directors in Pennsylvania! Find out about special features throughout the year and how you can join in the celebration.

## Prudential Spirit of Community Award winners/finalists announced

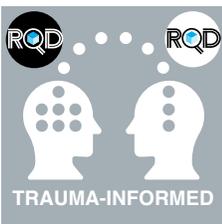
Congratulations to the top youth volunteers who have been named 2020 Prudential Spirit of Community Awards winners and finalists! Sponsored by Prudential Financial and the National Association of Secondary School Principals, the awards program honors outstanding community service by students in grades 5-12 at the local, state and national levels. National award winners are announced in May. This year public school student **Brendan Hung**, a junior at Radnor High School, Radnor Twp. SD (Delaware Co.); and **Savannah Zeaman**, an eighth grader at Klinger Middle School, Centennial SD (Bucks Co.) were named PA state honorees. State finalists from PA public schools include the following: **Srikar Bhumireddy**, grade 11, Downingtown East High School, Downingtown Area SD (Chester Co.); **Georgia Brothers**, grade 10, Burrell High School, Burrell SD (Westmoreland Co.); **Kathryn Hanshaw**, grade 12, Central Dauphin High School, Central Dauphin SD (Dauphin Co.); **Madeline Hoffman**, grade 11, Penridge High School, Penridge SD (Bucks Co.); **Amy Liu**, grade 11, Central Bucks High School South, Central Bucks SD (Bucks Co.); **Timothy Maron**, grade 12, Berwick Area High School, Berwick Area SD (Columbia Co.); **Casey Schaeffer**, grade 10, Pennsbury High School East, Pennsbury SD (Bucks Co.); and **Claire Shao**, grade 11, North Allegheny Senior High School, North Allegheny SD (Allegheny Co.).

## RESOURCES



### Commonwealth Education Blueprint

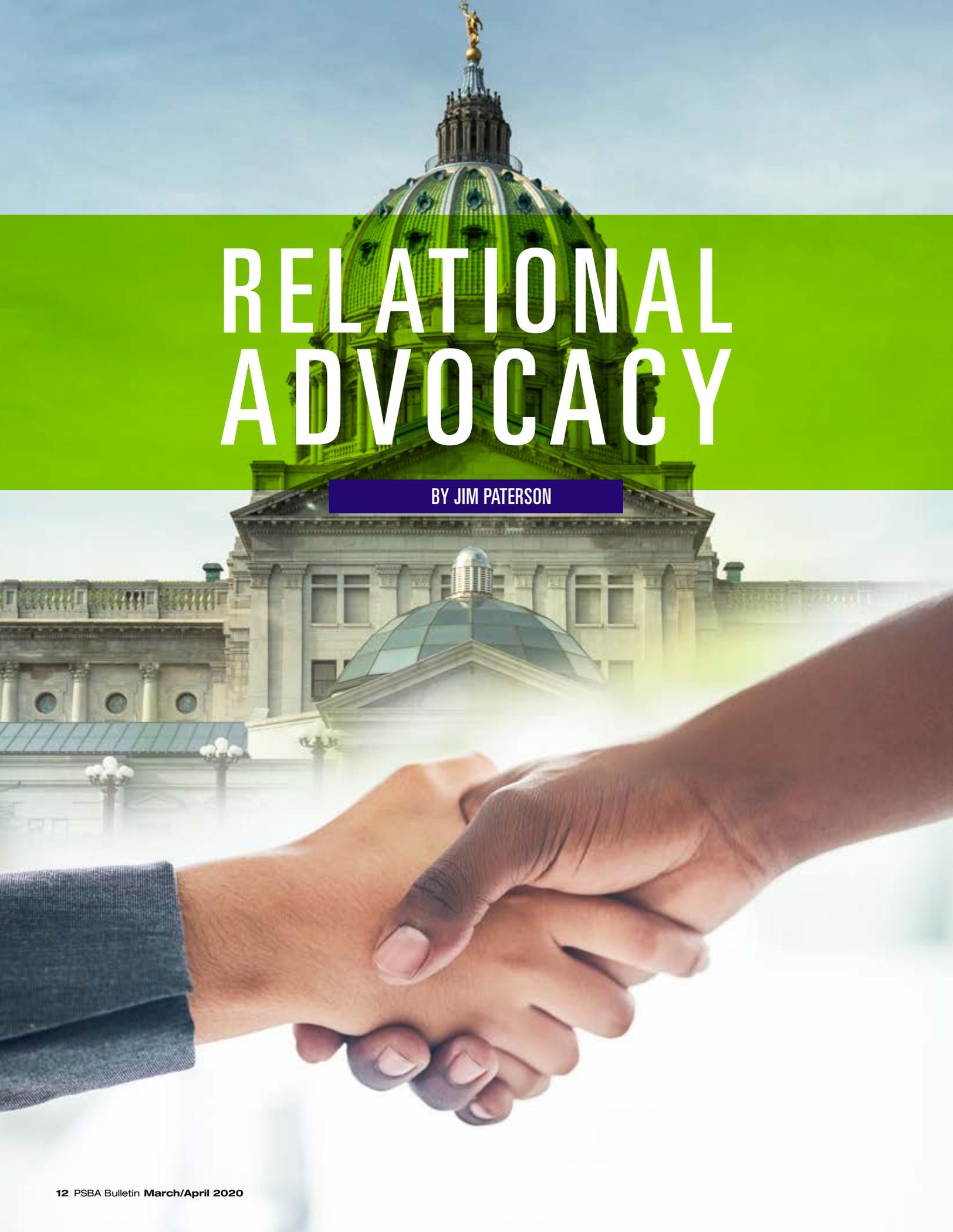
The Blueprint project is a statewide vision for the future of public education in Pennsylvania. The final report was released in January 2020. Read it at <https://www.edblueprintpa.org/>.



### Trauma-informed badge/courses

Coming soon! PSBA will release a new digital badge program with courses focused on trauma-informed education. Log on to myPSBA for details.





# RELATIONAL ADVOCACY

BY JIM PATERSON

**When most people think of advocacy, they envision a phone call or email to a legislator, one of hundreds meant to let them know that attitudes are strong about an issue. They might also think of a meeting where a hurried legislator quickly must be persuaded to view things a certain way – and act.**

**B**ut often, says experienced advocate Lena Hannah, while those types of activities are important and may be part of the process of promoting education with elected officials, it also involves simple connections, subtle persuasion and good information provided to lawmakers and public officials so they can take action and/or informed positions that benefit students.

“It doesn’t have to be contentious, and often it just involves developing a relationship with a legislator,” says Hannah, a PSBA Advocacy Ambassador serving 100 school districts in six counties in the southwest corner of the state and a school board director for the South Fayette School District. “It may simply mean you are providing them with good information.”

For example, Hannah had developed a strong relationship with state Rep. Jason Ortity (R- Allegheny - part, Washington - part), who represents her school district. When she heard about how successful threat assessment teams had been in some high schools, she began talking with Ortity about legislation on the matter. An expert from Virginia, who had been instrumental in developing legislation in that state, was also identified and contributed to early discussions. Following the introduction of initial threat assessment legis-

lation, PSBA partnered with the Pennsylvania State Education Association (PSEA) over many months to review, revise and supplement the language in the bill to ensure that it would work for school districts and that the burden of the new requirement was minimized as much as possible. The result was popular legislation introduced by Ortity as House Bill 1423.

This is an example of how the process can work for the greater good. Local officials received good information about a critical topic and a greater awareness about how the issue was being addressed in the legislature. Meanwhile, Ortity had an opportunity to gain valuable information and recommendations from various experts and education associations, which he then used to champion legislation that was eventually enacted into law. And, Hannah and other district officials made a better connection with him, while he was in a position to show his interest in an issue with which they were grappling. “It was a win-win,” Hannah says.

That sequence of events is just one of the hundreds of connections, big and small, that school directors throughout the state regularly make with legislators. They can range from a visit to discuss big issues such as schools, unfunded pensions or support for special educa-

**It doesn’t have to be contentious, and often it just involves developing a relationship with a legislator.**



*Jim Paterson is an education writer living in Lewes, DE.*



**When school directors have information to present, they should have a clear, concise, written description of the issue and their reasons for their position to leave with the legislator.**

tion, to a quick call with a staff member to get state help with an intersection that is dangerous to students.

“Each school district may have their own distinct situation or problem,” says Bob Anderson, a member of the Garnet Valley School Board in Delaware County, just southwest of Philadelphia. “But then we can also be effective when we chime in about one problem that we all have, or an issue that is impacting all our students.”

He and other school directors who are consistent about contacting state officials say it pays off. “When I began to serve on the school board, I realized how much activity in Harrisburg affects our schools, and how we can have an impact on those decisions,” says Sarah Heres, president of the Quaker Valley School District School Board

in Allegheny County northwest of Pittsburgh. “And I’m not sure they hear from us enough.”

**Building relationships**

State Rep. Jim Gregory (R-Blair) says he welcomes the input of school directors – either to help him choose a direction on an issue and give their position, or to provide him information that will allow him to make an informed decision. “I value their involvement,” Gregory says. “And it is most effective when we have developed a relationship over time. Elected officials appreciate those connections.”

School board directors inevitably say that they have similar goals. “I feel the greatest approach that any school director can take is to have open lines of communication with local and state public officials,” says James Costello, school board president from Crestwood School District in Luzerne County.

He believes school directors should make it their first priority. “As soon as I was sworn into the school board, I reached out to all of the state legislators that represent my district through an informational email to introduce myself and develop a relationship with them,” he says. “I provided them contact information and asked about the best way to stay in touch. That was a great first step in developing a relationship.”

# ADVOCACY RESOURCES

**Because advocacy is such an important responsibility of all school directors, PSBA offers resources to aid members in becoming successful advocates.**

**1**

**The PSBA Principles for Governance and Leadership**

Designed to increase board effectiveness for the benefit of students, spell out the proper standards for advocacy:

- Promote public education as a keystone of democracy
- Engage the community by seeking input, building support networks, and generating action
- Champion public education by engaging members of local, state and federal legislative bodies



## more **ADVOCACY** RESOURCES

And Heres agrees, also suggesting that face-to-face contact has a number of advantages and creates the most favorable, professional impression. She says she found PSBA's Advocacy Day (this year March 23) to be useful in having an opportunity to contact her legislator personally.

Hannah also says school directors initially should meet with their representatives personally, but not necessarily come with an agenda. She suggests they just introduce themselves or visit to get updates and generally keep the lawmakers aware of issues, sometimes just serving as a source of information, a sounding board or a guide to attitudes in the district. She says they should come prepared by finding out the background about the official and their interests personally and legislatively.

She also advises that if school directors intend to make a recommendation about an issue, they should not be argumentative or emotional, and if the representative does not agree with their position, they should not take it personally or try to seek retribution. Keep in mind advocacy is about relationship-building, and in relationships there are disagreements and varying opinions – that's okay. It's about the long haul and not just the short-term.

According to Anderson, when school directors have information to present, they should have a clear, concise, written description of the issue and their reasons for their position to leave with the legislator. "You may only have 15 minutes with these people, and sometimes they have to cancel or cut the time short. It is important to have something to leave behind that spells out your message," he says.

Hannah says phone calls or email can be effective, particularly when the volume of calls or messages is important. For instance, during *PSBA Legislative Alerts*, which directors can sign up to receive, it may be helpful to show key legislators that a broad coalition of educators have an opinion on an important topic.

"Through PSBA I read the state reports and when they ask us to make the phone calls, I do," says Heres. "That lets legislators know when an issue is important to all of us, and it's hard for them to ignore it."

She also says that it is important to invite legislators into schools to see the work of students, educators and staff members, either for a special event or to witness the day-to-day work there. It's also a good opportunity to talk with them about concerns while they can see them firsthand, making the issue clearer and more memorable.

Hannah also notes that social media is valuable because school board directors can keep up with what is happening in the legislature, find out about their representative's views on a topic and also let them know their board's position by responding on social media. She says in an age where everyone, including lawmakers, has so many competing sources of information, it is important to utilize whatever seems most effective with a particular official and will get their attention.

"It's also a valuable way to let them know about the good things that are happening at your schools or something important that is going on," Hannah says.

And Anderson notes that while it is important to make connections with state legislators, who are often dealing with policy that has the biggest effect on schools, school directors should advocate with both national lawmakers and those in their communities, both of whom also affect policy.

And, he says, often the message can primarily be about the mission of schools: "You can remind them that we want the best for the kids we are educating," he says. "We all are in the trenches doing important work – educating the next generation – and we need support. These are the people who are going to be running the old-age home you are in or fixing your car. But also, they are also going to be our leaders." **B**

### **2** PSBA Sectional Meetings

Make plans to attend your PSBA Sectional Meeting in March and April for presentations on legislative advocacy and appropriate use of social media. See PSBA.org for details.

### **3** PSBA.org Issues webpages

These pages, located under the Advocacy & News tab on PSBA.org, help members learn more about top issues on PSBA's platform and those that affect school entities in Pennsylvania. Pages provide information and links to news and data relevant to each topic.

### **4** PSBA Advocacy Guide

Learn the basics of public education advocacy and the resources available to assist members in making an impact. A newly updated version of this easy-to-use guide is available on myPSBA.

### **5** Online courses –

PSBA offers courses and badges in each Principle for Governance and Leadership, including "Advocate Earnestly." Access these courses on myPSBA under the Online Learning tab.

### **6** PSBA Legislative Report and Legislative Alerts

The *Report* e-newsletter is distributed weekly while the General Assembly is in session. Alerts are sent out as needed, asking members to contact their legislators on specific issues. Sign up to receive both on PSBA.org.

### **7** Advocacy Ambassadors

PSBA Advocacy Ambassadors facilitate relationships between lawmakers and school districts by coordinating legislators' visits to schools and other efforts. See PSBA.org to see which ambassador serves your section.



# Suffrage, civics and students in 2020

BY SEAN RUCK



Of the U.S. Constitution's 27 amendments, at least six strongly correlate to expanding the voting rights of citizens, yet Americans have a historically low participation rate in elections.



**D**uring a presidential election, on average, about half of eligible voters exercise their right. That number typically sits under 40% during midterms, putting the United States below the median among free democracies for voter participation. Americans are also highly polarized in their political leanings, with the gap between beliefs wider than it has been possibly in generations.

However, some organizations, teachers and schools are trying to change this narrative. Through increased student engagement and education surrounding suffrage and civics, there is hope that the next generation of voters will be more invested in putting country before party.

### THE NEXT GENERATION OF VOTERS

Boiling Springs High School in South Middleton School District is an example of how those efforts are paying off. The school was a Gold-level Governor's Civic Engagement Award winner, with 94% of voting eligible students registered to vote in the 2018-19 school year.

Joel Hain, principal of Boiling Springs, says the school has been participating in the governor's contest for the last two or three years. Although Hain says current events are touched on at all levels and the voter registration efforts largely focus on seniors due to age requirements, the lessons about civic engagement and suffrage kick into high gear in 10th grade. "Our social studies department is just a great department. They care about the kids, they care about politics, there's not a weak link," Hain says. "I think their focus on current events and the 24/7 access our students have to information really makes it possible to sort through the facts, helping students understand what's real and what's not real."

Hain says students use "week-in-review" newscasts in class that sum up what's been going on. Students also

*Sean Ruck is an editor, writer and public relations professional.*

use social media, providing real-time access to political developments. Teachers are able to not only provide the tools and techniques to understand the information students come across, but they're able to provide historical context and a better understanding of how our national and world politics have changed over time and what those changes can mean for the present and the future.

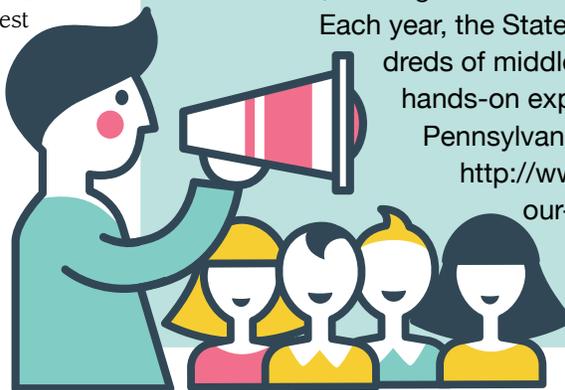
Lauren Bozart, an Advanced Preparatory (AP) Government and AP U.S. History teacher and Model United Nations advisor at Boiling Springs, provided more details on how the school hit the 94% voter registration mark. She says she had a group of highly motivated seniors passionate about civic engagement and government. "They participated in training, which was run by Inspire U.S. Following that session, they organized the voter registration lists and reached out to their classmates who were eligible to vote in the primary."

She says the goal was accomplished in a matter of weeks. She believes this year's student leaders will build on that success and is hopeful that by the end of March, Boiling Springs will once again be a Gold Award recipient.

## UNDERSTANDING AMERICA'S FOUNDING PRINCIPLES

Each year, The Rendell Center for Civics and Engagement poses a new question having to do with our country's political foundation and challenges students to write an essay in response. In 2019-20 the question was, "Which part of the Bill of Rights do you think is the most important and continues to exert the greatest impact on Americans today?"

Brigid Robertson is a fifth grade elementary school teacher, teaching science and social studies at Edgeworth Elementary, part of the Quaker Valley School District. Robertson



## Civics competitions and contests

Act 35 of 2018 requires school entities to administer a locally developed civics education assessment at least once to students during grades 7-12, starting in the 2020-21 school year. Although passing a civics test is not a graduation requirement, the Pennsylvania Department of Education released a resource to help schools comply with Act 35; it is available online at <https://www.education.pa.gov/Documents/Teachers-Administrators/Curriculum/Social%20Studies/Act%2035%20Civics%203%20Pillars%20Program.pdf>.

### Check out these other resources to increase student engagement and learning in civics.

**1 The Governor's Civic Engagement Award** (deadline: April 3, 2020)  
The GCEA is presented to outstanding students who are dedicated to increasing student involvement in the voting process. These students both participate in the voting process and work to educate their fellow students about how to get involved in the voting process.  
<https://www.votespa.com/Resources/Pages/Governor's-Civic-Engagement-Award.aspx>

**2 The Rendell Center Citizenship Challenge** (deadline: TBD for 2020)  
Classroom teams are asked to write an essay that addresses their point of view on the assigned issue. Teams take one position and defend their argument in a concise written document of a minimum of 300 words. The contest is drawn from PA civics standards relating to principles and documents of government; rights and responsibilities of citizens; and information on how government works.  
<https://www.rendellcenter.org/citizenshipchallenge/>

**3 Civic Action Multi-Media Contest** (deadline: May 8, 2020)  
Through Civic Action Project, (CAP) you are working on important issues that people care about. Enter the CAP multimedia contest and show the nation how you are making a difference.  
<https://crfcap.org/mod/page/view.php?id=208>

**4 YMCA Youth & Government** (deadline: TBD for 2020)  
YMCA Youth & Government is the only student-led, student-run, mock government experience of its kind in Pennsylvania. Each year, the State YMCA teaches democracy to hundreds of middle and high school students through hands-on experiences in the chambers of the Pennsylvania Capitol.  
<http://www.ymcapa.org/index.php/our-programs/youth-government/>



says she does a lesson on Constitution Day (September 17) and the school's academic specialist, Dr. Gina Gordon, shared an email from The Rendell Center about the organization's Citizenship Challenge. Robertson immediately recognized the strong tie-in to the work she was doing and put the opportunity in front of her students.

"I initially posed the question to my students without mentioning it was tied to a contest," she says. "After the kids made their choice, part of their assignment was to make a poster explaining why they felt it was important." The poster served as the jumping off point to the essay response for the students that wanted to explore further.

Robertson says eight students really took to the challenge, doing the work as part of the "Constitution Club," which was a bonus activity that met during lunch or recess every four days for about six weeks. The students picked the Eighth Amendment ("excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted") as their focus. In turn, the school was one of 10 invited to go to The Rendell Center and perform a skit explaining why they chose their amendment. The students were notified of their invitation just before Thanksgiving and had two to three weeks to put together their skit.

For the skit, one of the girls wrote two different rap songs and the students made props. One of the songs was about the civil rights movement and giving up your seat for someone based on the color of your skin. They also reenacted the Salem witch trials. With one event happening post-Constitution and the other before, it helped reinforce the importance and staying power of the document and the idea that it's still powerful and relevant today.

As a teacher, Robertson says she's passionate about having her students become productive citizens. "The baseline to that is helping them to understand how society works and letting them know they can have a voice even as 10-year-olds," she says. "They always impress me."

Robertson says they study civics beyond the Constitution, using materials like Scholastics News. In fact, the Salem witch trial component was inspired by a Scholastic News piece.

"They were so interested about how people were wrongly accused and punished unreasonably and they brought it back to Amendment Eight," she says. "They still have the conversation. I think it's something that's going to stick with them."

Beth Specker, executive director for The Rendell Center, provided more detail about the organization's efforts to foster a greater sense of civic engagement. Founded in 2014, the organization focuses on younger students mostly from K-8.

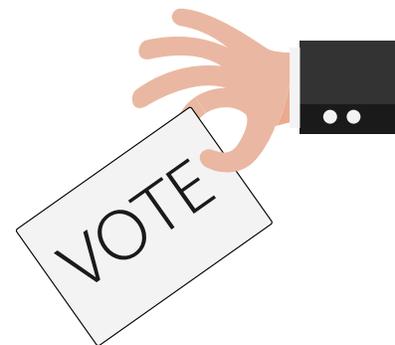
The center has seen interest in its work increase over the last few years. To that end, the Citizenship Challenge, which was initially offered only in the Philadelphia five-county area, expanded to the Pittsburgh area a couple years ago. The challenge receives 200 to 250 entries each from the Philadelphia and Pittsburgh areas. There have been talks about expanding the opportunity to the middle of the state and the northern section, but no decisions have been finalized in that regard at this time.

During the summer, the center also offers a teacher institute, bringing in educators from across the country to introduce curriculum that supplements or enhances the civics education happening in classrooms today. They also produce student town hall meetings, where they invite students to ask the Pennsylvania gubernatorial candidates questions. "It's not questions like, 'What's your favorite ice cream?' It's hard-hitting questions like, 'What are you going to do about the violence in my neighborhood?'" Specker says.

The center also offers a literature-based mock trial program, and a literature-based mock-Supreme Court program, all aimed at getting students to discuss and challenge the issues and learn about our judicial process when they're young, to better-enable them to understand it and make educated decisions as voters and citizens when they're older.

With U.S. politics seemingly becoming more polarized every day, it's hoped that by providing students with the tools to separate policy from opinion and fact from fiction, they'll be better able to find common ground when it comes to plotting the future of our country when it's their turn to lead. **B**

For more on this topic, listen to the **Keystone Education Radio** podcast, **Civic Engagement in the Generation Called Z**, to hear **Secretary of State Kathy Boockvar** and **Community Impact Manager Rachel Boss** explore civic engagement among the **commonwealth's young adults**.



About  
**287,000**  
18- and 19-year-olds  
are registered  
to vote.  
(U.S. Census)



Lehigh Area School District (Carbon Co.) was named a 2019 Forever Green: U.S. Green Building Council leadership award winner.

THE CENTERS FOR DISEASE CONTROL AND PREVENTION ISSUED A REPORT STATING THAT CHILDHOOD TRAUMA IS A PUBLIC HEALTH ISSUE THAT DEMANDS PREVENTION EFFORTS.

North Penn School District (Montgomery Co.) boys soccer coach **Paul Duddy** was named the Pennsylvania Coach of the Year for 2019.



The Secret Service National Threat Assessment Center released the Protecting America's Schools report, which analyzed **41 incidents** of school violence between 2008 and 2017.

The Trump administration's effort to end the Deferred Action for Childhood Arrivals (DACA) program was heard in the U.S. Supreme Court.



The Montgomery County District Attorney filed a civil complaint in the Court of Common Pleas against vaping industry giant JUUL Inc.

New Jersey announced that in the 2020 school year, it will mandate instruction recognizing the LGBTQIA community and its cultural contributions.

**David Baugh**, superintendent of the Centennial School District (Bucks Co.), was named Pennsylvania's 2020 Superintendent of the Year by the Pennsylvania Association of School Administrators.



The Seneca Valley Junior Reserved Officers' Training Corps (JROTC) was named a 2019-20 "Honor Unit with Distinction" by the U.S. Department of the Army.

**ALEXANDRA MINDLER** OF WILSON AREA SCHOOL DISTRICT WAS NAMED A 2019 PBS KIDS EARLY LEARNING CHAMPION.



Fox Chapel Area High School received national recognition for its outstanding efforts to provide inclusive sports and activities for students with and without disabilities.

Joseph Welch, a middle school teacher at the North Hills School District, was named the Pennsylvania Department of Education 2020 Teacher of the Year.

Gov. Wolf announced the campaign "Reach Out PA: Your Mental Health Matters," which focuses on expanding mental health resources.

PSBA staff presented on PSBA's Equity Toolkit at the National School Boards Association's Equity Symposium.

Safe2Say Something fielded over **40,000 submissions** from students in every single PA school district in its first year.



The Pennsylvania Department of Education announced \$5.7 million in grants to expand computer science classes and teacher training.

**DREXEL HILL MIDDLE SCHOOL'S JASON MAJERCZAK** IS ONE OF 10 TEACHERS NATIONWIDE IN THE RUNNING FOR THE 2020 MUSIC EDUCATOR AWARD PRESENTED BY THE RECORDING ACADEMY AND THE GRAMMY MUSEUM.

*Espinoza vs. Montana Department of Revenue*, a case focused on the conclusion of a state program that provided scholarships to students who attend private school, was heard by the U.S. Supreme Court.

The National Institute for School Leadership awarded Karen Kanter, principal of Simmons Elementary School in Hatboro-Horsham School District, with the Distinguished Principal credential.

The final report of the Commonwealth Education Blueprint was released. This report is a statewide vision for the future of public education in PA.



PSBA's John Callahan, chief advocacy officer, was a guest on PCN's Call-In Program, discussing education funding.



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## Sen. Scott Martin

### R-Lancaster (part)

*Senate Local Government Committee chair*

PSBA was very grateful for the recent opportunity to work closely with you on SB 530, legislation you introduced regarding protections for student victims of sexual assault. How do you believe this bill will provide greater protections for students? Senate Bill 530 is about empowering sexual assault victims and protecting them from ongoing trauma. I introduced this bill because of a constituent who had been sexually assaulted by a classmate off campus. After the student was adjudicated delinquent in court, he returned to school alongside the victim and understandably, the young woman was distraught. The school could not remove the adjudicated student but could offer that the victim be the one to leave the school. To my core, I believe this is wrong. Victims should not be forced to up-end their lives, their sources of support, and social and academic network because they were assaulted.

Senate Bill 530 would require a school to expel, transfer or reassign a student convicted or adjudicated delinquent for sexually assaulting another student at the same school. The legislation requires that ultimately, the involved students are not educated in the same building, ride the same bus, or attend the same school-sponsored events and will ensure that situations like the one just described never happen again.

I really appreciate the insight and expertise of PSBA, and it's that collaborative relationship that helped us produce a bill that not only achieves our underlying objective, but makes sense for our school boards and administrators.

“Senate Bill 530 would require a school to expel, transfer or reassign a student convicted or adjudicated delinquent for sexually assaulting another student at the same school.”



What are your thoughts on effective public school advocacy, and can you provide a useful advocacy tip to school directors across the state? Working together and communicating while keeping legislators apprised of the impact of legislation and policy on schools is the most effective method of advocacy. Members of the House and Senate are constantly presented with various important issues and topics related to education and like to hear from those who are most impacted by legislation.

I host Education Advisory Committee meetings with the superintendents of my district and include school board representation within that group. During those discussions we discuss legislation that is before the General Assembly and other related topics they feel are important. Continual communication between school officials and legislators is key so members of the General Assembly can understand how the decisions in Harrisburg directly affect schools and students.

As the General Assembly continues to discuss the issue of school safety, do you see a need for continued action in terms of policy or funding?

School safety is an ongoing topic that the General Assembly needs to address on a yearly basis and should involve all education stakeholders. In 2018 the governor signed my legislation which created the anonymous threat reporting system called Safe2Say. The legislation also included various school safety related items including \$60 million in funds for schools to hire security staff and counselors, staff training, the purchase of security equipment, and the creation of violence prevention programs.

In 2019, the General Assembly allocated another \$60 million for the School Safety and Security Grant program and focused on helping schools develop model plans to implement best management practices for trauma-informed education as well as threat assessment teams. I also introduced SB 106 which requires that a child charged with felony terroristic threats be forbidden to return to school until a mental health examination and home risk assessment is completed. The policy discussion of school safety will continue in the coming years in order to ensure that the General Assembly creates policies and provides the financial means to help schools create a safe learning environment for all students. **B**

## member profile

### Dr. Constance Nichols

school board director at Grove City School District since October 2017

**Occupation:** Grove City College, Education Department chair. Former reading specialist in a school near Pittsburgh.

**What is your biggest passion outside of board service?** I'm all in on educational access and community development all the time (our superintendent jokes I have more boards than a lumber yard). Outside of the school board I serve on the board of the Hope Center for Arts and Technology, a tuition-free adult vocational and youth arts program. I'm also on the board of the Grove City United Way, and I work with a foundation that provides tuition grants for low-income children to attend prekindergarten programs.

**What motivated you to become involved in board service?** There was a vacancy on our board and several of my friends asked me to get involved. I was hesitant to take on such a public role, but I knew I could contribute and wanted to represent all families and children in our district. I've taught thousands of teachers over the years and some of them have gone to really challenging places in their careers. How could I expect my college students to serve their communities deeply if I'm not willing to serve my own? In the end, it was an easy choice, and I'm very thankful I was appointed and subsequently elected for my current term.

**Why I chose this photo:** I wanted a photo that highlighted the diversity of our students, and I wanted the location to be the "commons" of our high school. I chose this location because my favorite place in the district is *wherever our students are*, and the commons of the high school is a place where lots of student clubs, sports, activities and independent projects work together.

**What aspect of your education has changed the most (or not at all) since you were a student?** What has changed the most is the ability of students to pursue such a diversity of interests in their schooling and through their own independent study. Thanks to online tools and resources there is not a single subject outside of the reach of students: robotics, multimedia, any foreign language, advanced mathematics, access to every genre of literature – the choices students have and their ability to pursue their interests are incredible. It's an exciting time to be part of education. What hasn't changed enough is our ability to measure and quantify learning. We still are holding on to finite ways of measuring student achievement in a world that values individual growth and lifelong learning.

**What issue in public education is most important to you right now?** Funding underperforming cyber charter schools with local taxpayer funds, particularly in districts that offer their own cyber programs. Too often these charter schools fail to meet the needs of some of our most vulnerable students. Poor-performing cybers further isolate children with academic and social needs and remove them from the network of local support that the local public school system can provide. Diverting public funds to failing charters goes against my core values of striving for excellence in education and providing equity for all students.

**Favorite high school extracurricular activity:** I loved the marching band — I was the drum major! My favorite subject was English.

**Where did you graduate from high school?** North Allegheny



Photo Composition: Multimedia Design and Community Filming class. Photographer: Sam Norris, Grove City, grade 11

Adam Welteroth, school board director, Williamsport Area SD (Lycoming Co.)

**In what ways do you and/or your board actively engage in advocacy on behalf of public education?**

Being an active school board director in your district is a great responsibility that no one takes lightly. The importance of ensuring the best public education at a reasonable cost to our community is one of the toughest challenges we face as school board directors. We need support. We need a voice in the state Capitol to ensure we have the best resources to continue giving our communities the best public education possible. This is why I make the trip to Harrisburg on Advocacy Day each year. Speaking with our locally elected officials in Harrisburg to express our need for support is one of the greatest ways we can help public education. It's also important to realize that advocacy is not just a one-day-a-year event in Harrisburg. Every day, we should be advocating for our schools. We can do this by calling our state representatives and senators and reminding them of the importance of funding for our schools. Stop by their local offices and see if they're available to talk. Invite state representatives and senators to district events to showcase the importance of our public schools and everything we have to offer. We are our biggest cheerleaders.

**What are some of the positive impacts of advocacy that you have witnessed?**

A positive impact of advocacy that I've seen is the development of personal relationships that I have been able to cultivate with our locally elected officials in Harrisburg. I have found that developing these relationships is imperative for enabling

candid discussions about advocating for public education; my message is received better and lawmakers are more invested in the "I'm a part of this team" approach. In the "dog-eat-dog" world of politics in Harrisburg, a friendly face is always a welcome sight for your locally elected officials. Some positive returns that I've seen in my district are the educational grants we received and recognition for the quality of education we give our students.

**How can school directors and other public education advocates overcome barriers to advocacy?**

The single most important action school board directors and public education advocates from across the state can do to overcome barriers to advocacy is to come together as one large body in Harrisburg on Advocacy Day. It might be easier for legislators to ignore a small group of advocates in the Capitol. However, state representatives and senators cannot and will not ignore hundreds of advocates that come together in Harrisburg to fight for public education. This is why it's so imperative for school board directors to not just say they advocate for public education, but to actually show up physically. If you truly want to make a difference by breaking down the barriers to advocacy in public education; come together with your boards, clear your schedules for Advocacy Day, and send that envoy of school board directors and administrators to Harrisburg. **B**

The guest column features responses from school leaders on topics of relevance. This column focuses on public education advocacy. If you would like to participate as a columnist, please contact Jackie Inouye at Jackie.Inouye@psba.org.



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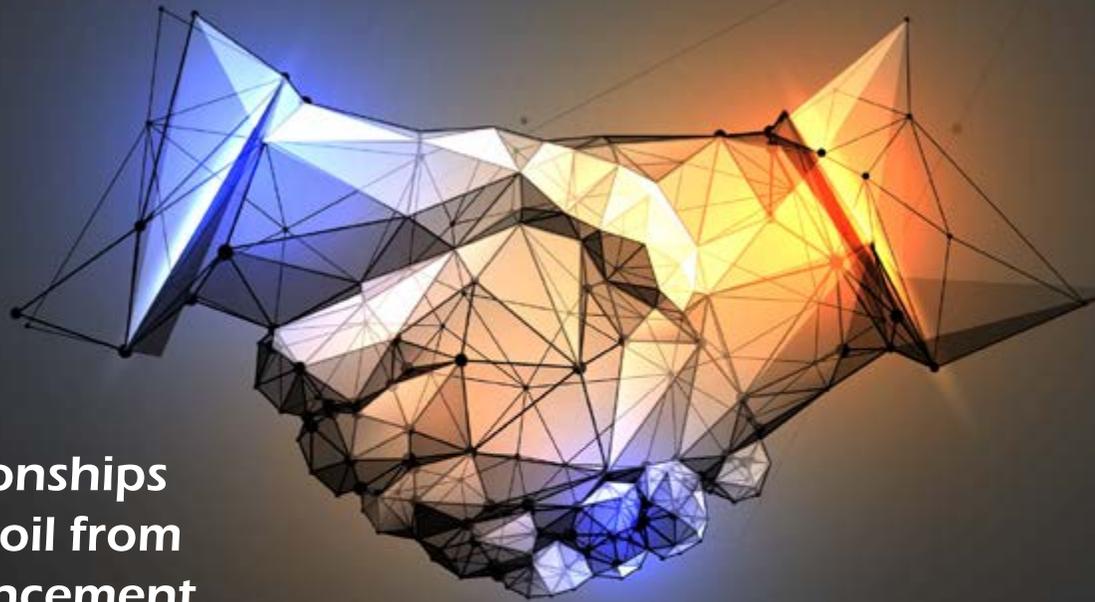
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## Arbitrage rebate management

By Rajesh "RC" Chainani, managing director, PSDLAF

**A**re you familiar with the Internal Revenue Service (IRS) Code and Regulations regarding arbitrage rebate? For example, in the event of an IRS review or audit, the IRS will want proof that no liability was earned, not just a statement that rates were low at the time, therefore, no liability existed. While the rules are complex, simple procedures are the key to ensuring compliance at all times.

A municipal bond is a bond that is issued by a city, state or any other qualifying governmental entity (school). From the viewpoint of a governmental bond issuer, a bond issue is just a way to borrow from bondholders (for capital projects or refinancing of debt). Each bond is a promise to pay back the principal amount of the bond with interest at the bond rate (in reality, the same as a home mortgage). Interest earned by bondholders on a municipal bond is exempt from federal income tax if the issuer complies with the requirements of the Internal Revenue Code. Since interest on the bonds is tax-exempt, investors will accept lower rates of interest than those offered on conventional taxable bonds. The result is a bottom-line savings to the school in the form of lower interest rates.

The Tax Reform Act of 1986 instituted

a set of rules referred to as the arbitrage regulations. So, what is arbitrage? Arbitrage is the profit from buying something in one market and selling it in another. In the context of the municipal bonds the two markets are: 1) the market for tax-exempt bonds issued by a municipal entity; and 2) the market for taxable bonds issued by corporations and the federal government. Interest rates are higher in the taxable market to compensate the investor for taxes. In the world of municipal bonds, arbitrage is a municipality's profit from borrowing funds in the tax-exempt market and investing the proceeds of its borrowing in the taxable market.

Schools can invest their bond proceeds in taxable investments, such as U.S. government securities, taxable CDs, and taxable money market funds, until they disburse these proceeds to pay for the project or projects for which the bond issue was intended. It is important to monitor investment yields from each individual account and make prudent investment decisions in order to reduce negative arbitrage.

The arbitrage regulations are a specific section of the Tax Code that state that while municipalities (schools) may borrow tax-exempt bond proceeds, they may *not*

invest them above the overall borrowing cost of the tax-free debt and retain the profit. School districts that issue bonds that are subject to the arbitrage regulations are required to perform a calculation referred to as arbitrage rebate calculation. An arbitrage rebate report verifies that the taxable investment yield of the school district's bond proceeds is *below* the tax-exempt borrowing cost of issuing the bonds. **It is important to note that every tax-exempt bond issued is subject to the arbitrage regulations, as this is a non-waivable requirement, as listed in Section 148 of the Tax Code.**

Tax-exempt bond compliance is complicated, but necessary. *Without the right expertise, costly mistakes can occur in the calculation process, potentially leading to late filing interest and penalties, or even loss of tax-exempt status for bonds.*

The receipt of arbitrage profits from the sale of tax-exempt bonds is prohibited by the Tax Code unless the bonds qualify for and meet one of the exceptions in the Code or during the temporary period as defined in the Code. During this temporary period, arbitrage profits are permissible, but must be paid in the form of a "rebate" or tax to the federal government. An independent qualified rebate provider will compute the rebate on the taxable investments of the issuers of tax-exempt bonds. *Schools need to make arrangements with a qualified rebate provider to ensure all calculations are in compliance with IRS regulations.*

Since bond proceeds are *yield-restricted after three years*, it is imperative any proceeds outstanding beyond this point be evaluated for any potential yield-restriction liability. The rules may be complex, but following the simple guidelines noted in this article are not.

Additionally, since the rebate report is a requirement of the Tax Code, the school's bond counsel would be able to verify the necessity of these calculations for maintaining full tax-compliance on the school district's bonds.

It is always better to have the report and not need it, versus the alternative. **B**

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# How do your pupil/ staff ratios compare?

**Q**uestions regarding staffing and number of pupils are frequently addressed by PSBA. The following tables are provided to give school officials a general understanding of staffing patterns. The category ranges used to create comparisons are number of pupils (average daily membership), aid ratio and community type. The 453 responding Pennsylvania public school districts that provided their personnel information were sorted and distributed into five groupings for the number of pupils and aid ratio tables. The ratios were determined for pupils per teaching staff and management by calculating the average of the individual school districts in each grouping.

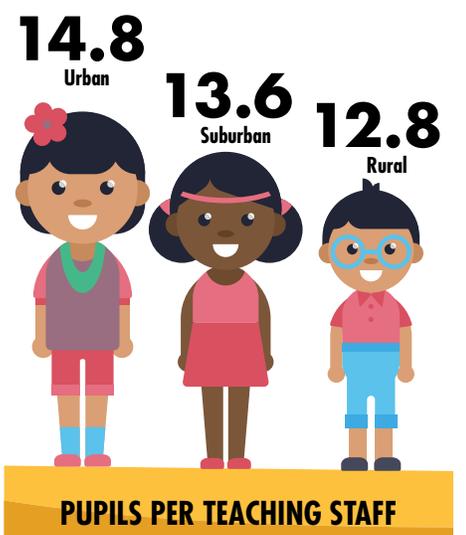
Teaching staff includes teachers, counselors, nurses, librarians and other positions normally identified as bargaining unit personnel. Management staff is administrative or management personnel with supervisory responsibilities including superintendents, assistant superintendents, business managers, principals, directors and department heads. The information sources used for these tables are the Pennsylvania Department of Education and an annual survey of districts conducted by PSBA.

## Pupil/Staffing Ratios in Pennsylvania Public School Districts, 2018-19

NUMBER OF PUPILS RANGE	PUPILS PER TEACHING STAFF	PUPILS PER MANAGEMENT	NUMBER OF DISTRICTS
1,080 or Less	12.0	109.9	91
1,081 – 1,689	13.2	137.3	91
1,690 – 2,479	13.5	152.0	90
2,480 – 4,149	13.6	159.5	90
4,150 or More	14.0	182.7	91
<b>All Districts</b>	<b>13.3</b>	<b>148.3</b>	<b>453</b>

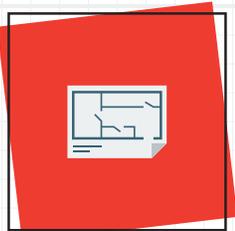
AID RATIO RANGE	PUPILS PER TEACHING STAFF	PUPILS PER MANAGEMENT	NUMBER OF DISTRICTS
.4209 or Less	12.7	151.8	90
.4210 – .5415	13.5	152.6	91
.5416 – .6125	13.4	147.0	91
.6126 – .6879	13.3	145.9	91
.6880 or More	13.4	143.9	90
<b>All Districts</b>	<b>13.3</b>	<b>148.3</b>	<b>453</b>

COMMUNITY TYPE	PUPILS PER TEACHING STAFF	PUPILS PER MANAGEMENT	NUMBER OF DISTRICTS
Urban	14.8	177.5	20
Suburban	13.6	156.6	204
Rural	12.8	138.3	229
<b>All Districts</b>	<b>13.3</b>	<b>148.3</b>	<b>453</b>



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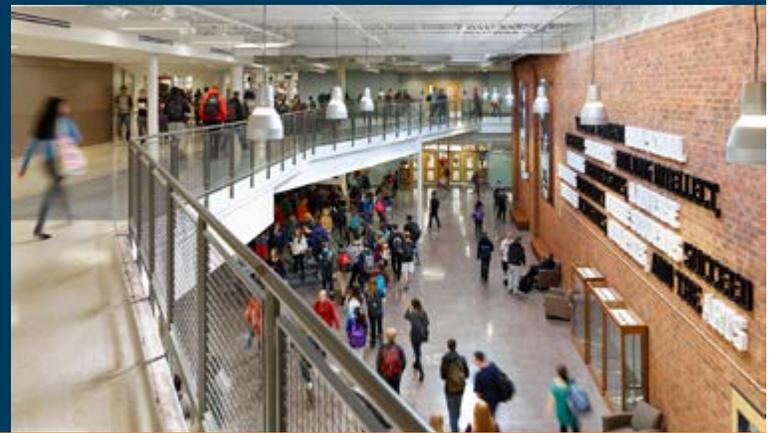
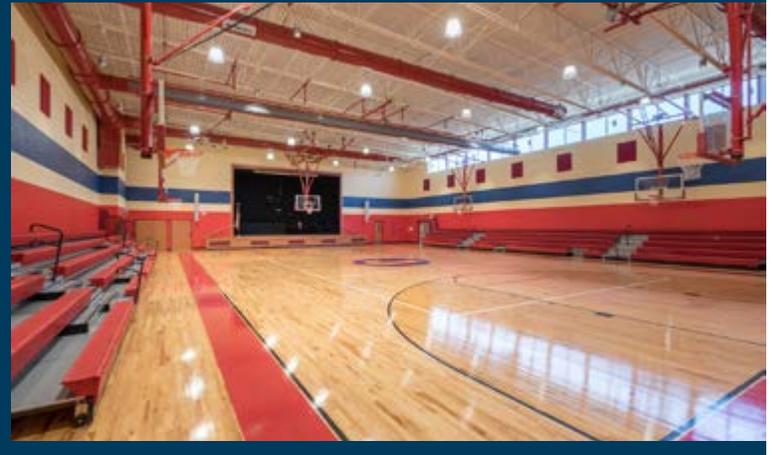
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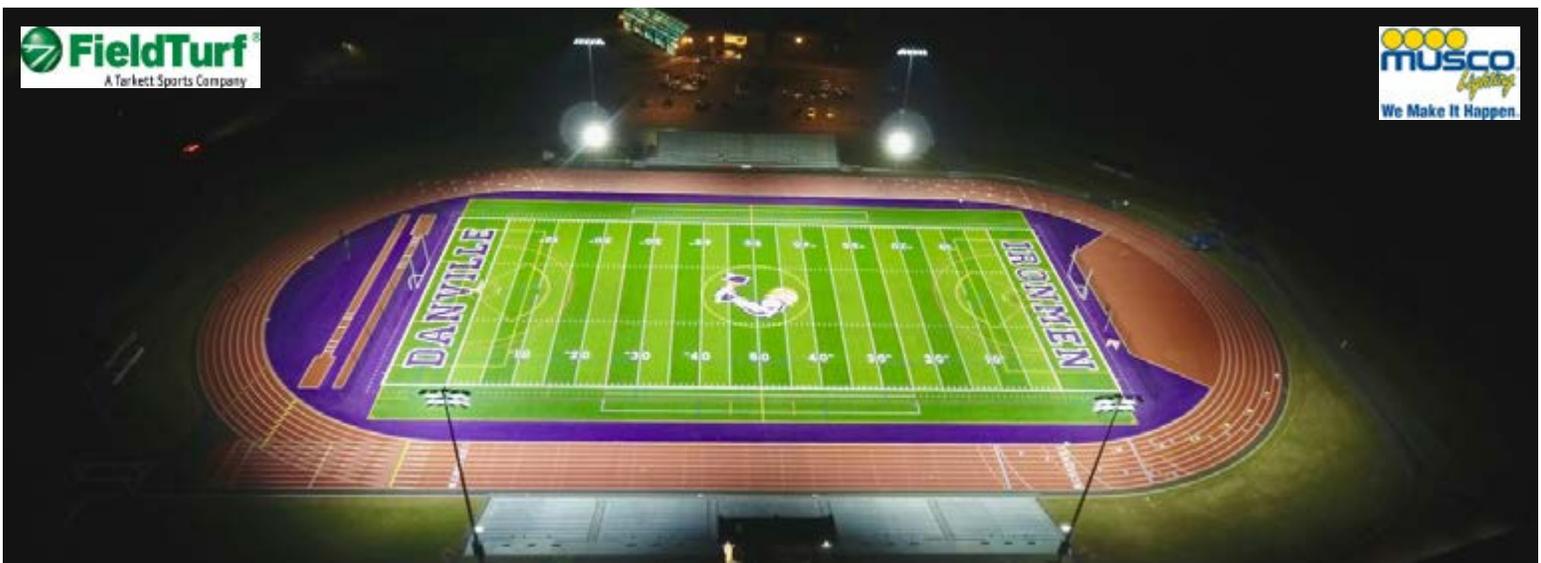
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# Fun and games: Cultivating civic interest at Meyersdale Middle School

By Mackenzie Arcuri

Over five years ago, Kristi Sines implemented an innovative project for the sixth graders in her civics class at Meyersdale Area Middle School (Somerset Co). Now a yearly project, she tasks her students with creating a board game to illustrate the complex legislative process of a bill becoming a law.

For two weeks, Sines' class learns the process of how a bill becomes a law through simulations, notes, reading comprehension activities, videos and assessments. As a culmination of their learning, the students assemble into groups and create a board game. They are given the parameters that the game should present an accurate depiction of the steps in both the House of Representatives and the Senate with an emphasis on the obstacles and challenges lawmakers face each day.

Students are graded on their ability to show the process from the introduction of a bill to the final passage and eventual signing of the bill by the President of the United States, creativity, clear and concise directions and rules, and illustration of the process.

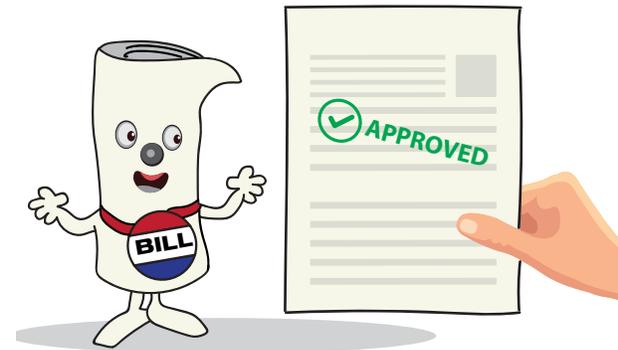
This game not only teaches students about the extensive legislative process, but also equips them with important intrinsic skills such as teamwork, cooperative learning, collaboration, planning and time management skills.

Since employing this less traditional method of teaching, Sines has noticed a difference in her students. "The biggest difference that I have seen in my students is how excited they are to create a visual representation of their learning. They have a greater command of their learning and take a lot of pride in their projects. Students who complete the board game rather than utilizing traditional teaching methods enjoy a hands-on approach that brings the legislative process to life," said Sines.

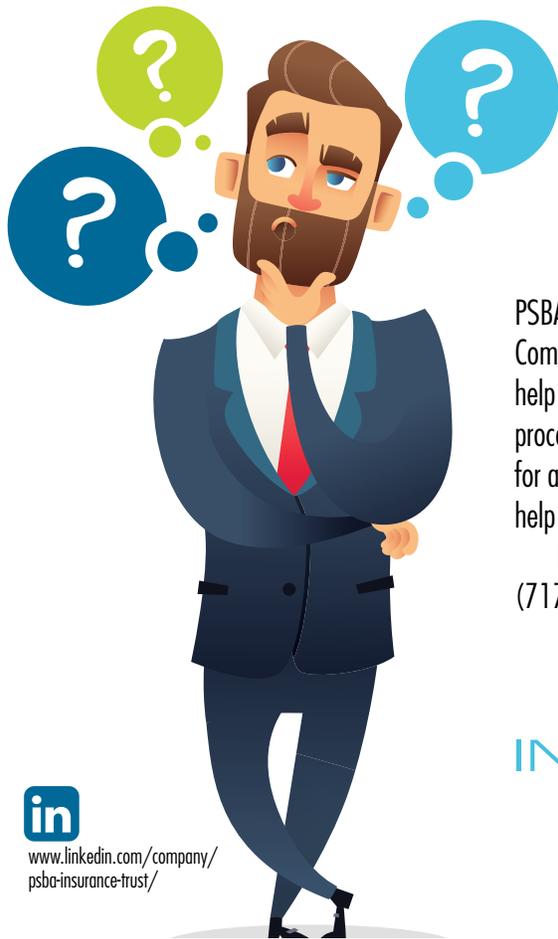
For Sines, it is rewarding to see her students take control of their assignment and develop a deeper understanding of an important concept in democracy. "I believe that the earlier that we can teach our students the importance of the legislative process, the greater the likelihood that they will be active participants in their community and will become engaged in civil matters as they get older," Sines added. After the project is completed, students get to enjoy playing their peers' games.

With the presidential election occurring this year, Sines' students have been actively engaged in learning about the candidates and the process of selecting the leader of our country. She has implemented quite a few projects in her classroom to focus on showcasing the importance of voting.

For teachers who are interested in starting a similar project in their classroom, Sines "would encourage them to be open to new ideas and to allow the students to have complete ownership of the game. Allow the students total artistic freedom from designing the game to actually creating a physical representation of the game." **B**



This game not only teaches students about the extensive legislative process, but also equips them with important intrinsic skills such as teamwork, cooperative learning, collaboration, planning and time management skills.



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## Designating a leave as an FMLA leave

**T**he Family and Medical Leave Act (FMLA) was enacted by Congress in 1993 to ensure that eligible employees who were employed by covered employers could take 12 weeks of leave for certain defined reasons and could have legal protections regarding such leaves. See 29 U.S.C.A. §2601 *et seq.* Of the many rights and responsibilities expressed in the FMLA, the FMLA provides that employers have discretion to designate qualifying leave as FMLA leave and to run such leave concurrently with other paid leaves – such as accumulated sick leave – that the employee has a right to use. This cannot be clearer under the FMLA:

### **(d) Relationship to Paid Leave**

\*\*\*

#### **(2) Substitution of paid leave**

##### **(A) In general**

*An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or family leave of the employee for leave provided under subparagraph (A), (B), (C), or (E) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection.*

##### **(B) Serious health condition**

*An eligible employee may elect, or an employer may require the employee, to substitute any of the accrued paid vacation leave, personal leave, or medical or sick leave of the employee for*

*leave provided under subparagraph (C) or (D) of subsection (a)(1) for any part of the 12-week period of such leave under such subsection, except that nothing in this subchapter shall require an employer to provide paid sick leave or paid medical leave in any situation in which such employer would not normally provide any such paid leave...*

29 U.S.C. §2612(d).

The FMLA provides that employers have discretion to designate qualifying leave as FMLA leave and to run such leave concurrently with other paid leaves.

Although the FMLA provisions above refer to the employer's right to require the employee to substitute paid leaves for the leave provided under the FMLA, it makes clear that the 12 weeks of such FMLA leave is finite. Therefore, the employer is permitted to run the FMLA leave and paid leave concurrently through the single 12-week period. The Department of Labor regulations implementing Section 102(d) of the FMLA, state this:

*(a) Generally, FMLA leave is unpaid leave. However, under the circumstances described in this section, FMLA permits an eligible employee to choose to substitute accrued paid leave for FMLA leave. If an employee does not choose to substitute accrued paid leave, the employer may require the employee to substitute accrued paid leave for unpaid FMLA leave. The term*



By Michael I. Levin  
PSBA General Counsel



## Employers should be aware that this issue has not escaped the eye of the Pennsylvania Labor Relations Board (PLRB).

**substitute means that the paid leave provided by the employer, and accrued pursuant to established policies of the employer, will run concurrently with the unpaid FMLA leave.** Accordingly, the employee receives pay pursuant to the employer's applicable paid leave policy during the period of otherwise unpaid FMLA leave.

*An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the employer's normal leave policy...*

29 C.F.R. § 825.207(a).

This same conclusion has also been reached by numerous federal court decisions applying FMLA Section 102(d). See

*e.g., Slentz v. City of Republic, Mo.*, 448 F.3d 1008, 1010 (8th Cir. 2006) ("The Act grants an employer the power to require an employee to substitute any accrued sick leave for leave provided under the FMLA. § 2612(d)(2)(B). An employer may permit an employee to use FMLA leave and sick leave sequentially **or may require that the two run concurrently.**") (Emphasis added.) See also *Strickland v. Water Works & Sewer Bd. of City of Birmingham*, 239 F.3d 1199, 1205 (11th Cir.2001) ("The plain meaning of this regulation is that an employee who has an FMLA-qualifying condition may take both 12 weeks of unpaid leave under the Act, plus any paid leave his employer provides unless the employee chooses, **or the employer requires, that the two leave entitlements run concurrently...**These provisions, taken together, make clear that an employer who is subject to the FMLA and also offers a paid sick leave policy has two options when an employee's leave qualifies both under the FMLA and under the employer's paid leave policy: the employer may either permit the employee to use his FMLA leave and paid sick leave sequentially, **or the employer may require that the employee use his FMLA leave entitlement and his paid sick leave concurrently.**") (Emphasis added.) See also *Dotson v. BRP U.S. Inc.*, 520 F.3d 703, 709 (7th Cir. 2008) (The regulations "make clear that if the employer provides adequate notice, **FMLA may run concurrently** with workers' compensation benefits.") (Emphasis added.)

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Therefore, it would appear that under the FMLA and its regulations, employers may designate an employee's qualifying leave as FMLA leave and run such leave concurrently with paid leaves available to the employee — with or without the request or agreement of the employee.

However, in two very recent grievance arbitration cases each decided in late 2019, the teachers' union at two different school entities argued that a somewhat recent Ninth Circuit Court of Appeals decision, *Escriba v. Foster Poultry Farms, Inc.*, 743 F.3d 1236 (9th Cir. 2014), essentially eliminated the right of the employer

to require the concurrent running of FMLA leave and paid leave and instead established that only the employee has the discretion whether to request or decline such leave. In both cases, the union argued that the decision in *Escriba* stood for the proposition that an employee can affirmatively decline to use FMLA leave even if the underlying reason for seeking leave would have invoked the FMLA protection and an employer cannot designate an employee's requested time off as FMLA leave or run it concurrently with applicable paid leave *unless requested by the employee*.

In *Escriba*, the stated issue was not whether an employer

could require that paid leave and FMLA leave run concurrently but centered only upon whether the employee's wish to decline the designation of FMLA leave waived her FMLA protections accorded to such leave. In *Escriba*, the employee was terminated for failing to comply with the company's "three day no-show, no-call rule" after the end of a previously approved period of leave. The employee subsequently filed suit under the FMLA claiming that her termination was an unlawful interference with her rights under the FMLA. The dispute centered on the employee's request for a two-week period of leave. The employer claimed that, although the employee provided an FMLA-qualifying reason for taking the leave, the employee explicitly declined to have her time off count as FMLA leave to which the employer acquiesced and thus, did not designate such leave as FMLA leave. *Id.*, 743 F.3d at 1239. The employee argued that the employer was required to designate her leave as FMLA-protected and to provide her with a notice of her rights under the FMLA regardless of whether she expressly declined such a designation. *Id.*, 743 F.3d at 1243. The court ultimately held that the employer did not interfere with the employee's FMLA rights because the employee in that instance elected not to take FMLA leave. The Court noted that the FMLA is silent as to whether an employee can even decline or defer the exercise of FMLA rights under the statute. *Id.*, 743 F.3d at 1243. However, the



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Court stated that an employer's obligation to ascertain "whether FMLA leave is being sought" strongly suggests that there are circumstances in which an employee might seek time off but intend not to exercise his or her rights under the FMLA. *Id.* Therefore, in affirming the lower court ruling, the Court concluded that an employee could affirmatively decline to use FMLA leave, even if the underlying reason for seeking the leave would invoke FMLA protection. *Id.*, 743 F.3d at 1244. Thus, the Court reasoned, the employee could waive her protections under the FMLA. *Id.*, 743 F.3d at 1244. Several federal cases citing *Escriba* under similar circumstances have come to the same or similar conclusion. See e.g., *Gravel v. Costco Wholesale Corp.*, 230 F. Supp. 3d 430, 437 (E.D. Pa. 2017).

Interestingly, nowhere in *Escriba* or the cases citing *Escriba* do the courts actually hold that under such circumstances, the employer could not still designate such leave as FMLA or run it concurrently with the requested paid leave. In other words, the courts found that the respective employer acted lawfully, not that the employer was precluded from exercising its right to concurrently designate the leave as an FMLA leave if it had desired to

do so. At most, these cases opine that an employee may decline to request FMLA leave for absences that would otherwise invoke FMLA protection and an employer may agree to do so. However, not one of the decisions expressly indicates that the employer may not request FMLA-related information or designate such leave as FMLA leave or run it concurrently with applicable requested paid leave.

In addition to pointing out the inapplicability of *Escriba*, in both of the recent grievance arbitration cases, the employers cited to the statute itself as well as to the opinion letter issued by the U.S. Department of Labor (DOL) on March 14, 2019 (FMLA 2019-1-A), which stated that employers may not delay the designation of paid leave as FMLA leave and may not permit more FMLA leave to employees than the statutory 12-week entitlement. The opinion letter provided that employers cannot delay the designation of FMLA-qualifying leave (for example, by allowing an employee to exhaust other available paid leave before designating leave as FMLA-qualifying) and if an eligible employee communicates the need to take FMLA-qualifying leave, neither the employee nor employer can decline FMLA protection for



that leave. Once the employer determines the employee's leave is FMLA-qualifying, the leave becomes FMLA-protected and counts toward the employee's FMLA leave entitlement. In addition, the DOL expressly disagreed with *Escriba* that an employee may decline to use FMLA leave for FMLA-qualifying time off and use non-FMLA leave for that time to preserve FMLA leave for future use. DOL Opinion Letter FMLA2019-1-A, March 14, 2019.

As noted, the DOL opinion directly assails the rationale and decision reached in *Escriba*. In 2019, this "disagreement" was referenced by the U.S. District Court in the District of Columbia as follows:

*A number of courts have found that employees are allowed to explicitly refuse to take leave they would otherwise be entitled to under the FMLA. See, e.g., Escriba, 743*

*F.3d at 1244 (noting that "there are circumstances in which an employee might seek time off but not intend to exercise his or her rights under the FMLA"); Gravel v. Costco Wholesale Corp., 230 F. Supp. 3d 430, 437 (E.D. Pa. 2017) (finding no FMLA violation when the plaintiff specifically elected not to take FMLA leave, and thus was not protected under the act while on leave); ... On the other hand, the Department of Labor indicated in a recent opinion letter that it disagrees with Escriba and regards the FMLA as requiring employees to take FMLA-qualifying leave, with no option to "use non-FMLA leave for an FMLA-qualifying reason." U.S. Dep't of Labor Wage and Hour Division, Opinion Letter FMLA2019-1-A 2 n.3 (Mar. 14, 2019), [https://www.dol.gov/whd/opinion/FMLA/2019/2019\\_03\\_14\\_1A\\_FMLA.pdf](https://www.dol.gov/whd/opinion/FMLA/2019/2019_03_14_1A_FMLA.pdf).*

*Dougherty v. Cable News Network, 396 F. Supp. 3d 84, 110 (D.D.C. 2019).*

Although the D.C. District Court chose not to resolve the disagreement of authority in that case, based upon the facts before it, the court held that the employer's designation of the employee's leave as FMLA leave without his consent was not improper. *Id.*, 396 F. Supp. 3d at 110.

However, employers should note that in the two grievance arbitration decisions referenced above, only one of the arbitrators ruled in favor of the employer (based in large part on the aforementioned provisions of the statute and regulations) and the other cited to *Escriba* in part for its rationale in favor of the union.

Where does this leave school employers? As noted, the FMLA and its regulations, federal case law and the DOL

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opinion letter give ample support for the continued practice of designating and running FMLA leave concurrently with applicable paid leave, even where the employee does not request FMLA coverage. With knowledge of the diametric split in recent arbitration awards, it is still our belief that school employers who currently designate qualifying leave as FMLA leave and run FMLA leave concurrently with any applicable paid leaves should continue to do so. In addition, with the passage of time, such clearly articulated practices – consistently applied – will become “past practices” or “custom,” as well as implicate contractual grievance limitations periods.

For those employers who do not currently designate all such qualifying leaves as FMLA leave or run FMLA leaves concurrently with other paid leaves, or those employees who permit the employees to decide such application, while the above analysis provides a basis for changing such practices, employers should be aware that this issue has not escaped the eye of the Pennsylvania Labor Relations Board (PLRB).

In a recently decided PLRB hearing examiner opinion, it was determined that while the FMLA does not mandate an employer to designate the type of employee leave at issue as FMLA leave (contrary to the DOL opinion), such an act is discretionary and hence, subject to the duty to bargain. See *Officers of Towamencin Township Police Department v. Towamencin Township*, 51 PPER ¶ 29 (Hearing Examiner Decision October 24, 2019). More specifi-

cally, the hearing examiner held that where the public employer unilaterally reversed its existing policy by designating an employee's pregnancy-related leave as FMLA leave when the employee wanted to use negotiated paid leave benefits instead of FMLA designated leave, the employer violated Section 6(1)(a) and (e) of the Pennsylvania Labor Relations Act (PLRA)\*. *Id.*, citing *International Association of Firefighters, Local 1803 v. City of Reading*, 31 PPER 31057 (Final Order, 2000); *AFSCME Local 1971 v. Philadelphia Office of Housing and Community Development*, 27 PPER 27214 (Proposed Decision and Order, 1996); *International Association of Firefighters Local 1749 v. City of Butler*, 32 PPER 32066 (Proposed Decision and Order, 2001).

In rejecting the employer's assertion that the designation of FMLA leave is mandatory and not discretionary, the hearing examiner reviewed the DOL opinion letter referenced above as well as *Escriba*. The hearing examiner declined to give the DOL opinion letter controlling weight, citing that it did not address the issues in the collective bargaining context or address whether the matter is bargainable. *Id.* Instead, the hearing examiner held that an employer applying FMLA leave concurrently with other paid leave benefits remains discretionary under the FMLA regulations and does not preempt or preclude bargaining. *Id.* In other words, according to the hearing examiner, an employer's mandating concurrent use of FMLA leave with other leave benefits is a mandatory subject of bargaining. *Id.* Because in that instance, the employer imple-

\*The collective bargaining rights of most public employees in Pennsylvania are governed by the Public Employee Relations Act (PERA aka Act 195), supplemented for school employees by Act 88 of 1992. For police and other public safety personnel, such rights fall under Act 111 of 1968, also referred to as the Policemen and Firemen Collective Bargaining Act, which is read together with the PLRA. PLRA otherwise does not apply to public sector employees.

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mented its change in FMLA policy without bargaining with the union, the hearing examiner held that the employer violated the PLRA. Alternatively, the hearing examiner held that the employer's policy change was a change in a past practice affecting a mandatory subject of bargaining also in violation of the PLRA. *Id.*

For the purposes of this article, while such a policy and practice is permissible under the FMLA, employers must consider whether Public Employee Relations Act (PERA) dictates that changes in the implementation of that policy and practice must be bargained. Because the scope of what are mandatory subjects of bargaining under PLRA are not necessarily coextensive

with what PERA requires, the recent hearing examiner's proposed decision and order, even if eventually upheld by the full PLRB, does not answer that question definitively. Of course, the duty to bargain also necessarily implicates such further possible arguments regarding timeliness, waiver, past practices, as well as "im-passe" and "status quo" considerations well beyond the scope of this article.

### Conclusion

In light of the foregoing, if a public school employer has an established policy or practice of designating as FMLA leave all time off taken by employees for a qualifying reason, and to require employees

to take available paid leave concurrently, the employer has the statutory authority to follow that policy or practice. The recent PLRB hearing examiner's decision lends significant support to the view that the FMLA and regulations thereunder also do not prevent the employer from agreeing to a different approach in a collective bargaining agreement, notwithstanding the positions expressed in the March 2018 DOL opinion letter. However, where unionized employees are concerned, a substantial question exists regarding whether an employer can unilaterally change its policy or practice, or whether such a change would be a mandatory subject of bargaining under PERA. **B**

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**Q: What types of protections exist regarding the disclosure of student records?**

**A:** The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations, 34 C.F.R. Part 99, require that all student records containing personally identifiable information concerning individual students being maintained by school entities must be kept confidential and generally cannot be disclosed without prior parental consent unless otherwise authorized.

**Q: How are members of the Intermediate Unit (IU) board elected?**

**A:** IU board members are elected during the annual IU convention or by mail ballot of the school directors from all the school districts comprising the intermediate unit. 24 P.S. §§ 9-910-A(b), 9-911-A. Each school director is entitled to cast a proportionate ballot, which is weighted according to the student population of their school district, for any candidate. No school district is permitted to have more than one member on the IU board, except when there are fewer than 13 districts; then the IU board may elect an additional at-large member. 24 P.S. § 9-910-A(a)-(b).

**Q: Who may serve on an Area Vocational-Technical School (AVTS) joint operating committee?**

**A:** School directors from participating districts are eligible to serve on a joint operating committee, the membership of which is spelled out in the operating agreement for the school and must include at least one member from each participating district. Each participating district elects one or more of its members, as the case may be, to serve on the joint operating committee for a three-year term. The committee selects its own chairperson, vice chairperson, treasurer and secretary. The secretary may or may not be a committee member. 24 P.S. § 18-1850.3(c)-(d).

**Q: What is the Pennsylvania Public School Employees' Retirement System (PSERS)?**

**A:** PSERS is a mandatory retirement system established under state law – the Public School Employees' Retirement Code – covering all full-time and regular part-time employees working for school districts, intermediate units, vocational-technical schools and charter schools. In addition, per diem or hourly employees who work more than 80 full-day sessions or 500 hours in a fiscal year are required to participate in PSERS. 24 Pa.C.S. § 8301.

**Q: Are volunteers required to submit certifications prior to participating in student activities?**

**A:** Yes, certain volunteers must obtain certifications prior to participating in student activities. Pursuant to the Child Protective Services Law, a volunteer subject to the certification requirements is defined as “an adult applying for or holding an unpaid position as a volunteer with a school as a person responsible for the child’s welfare or having direct volunteer contact with children.” 23 Pa.C.S. § 6344.2. “Direct volunteer contact with children” is defined as the care, supervision, guidance or control of children and routine interaction with children.” 23 Pa.C.S. § 6303. “Routine interaction” is defined as “regular and repeated contact that is integral to a person’s employment or volunteer responsibilities.” *Id.*

**Q: Must a school district employ a district superintendent?**

**A:** Yes. Section 1071 of the Public School Code requires every school district’s board of directors to elect a properly qualified person as district superintendent. 24 P.S. § 10-1071. School boards retain discretion to determine whether it is necessary to employ assistant superintendents and the number of assistants needed.

**Q: What is an “amicus curiae?”**

**A:** The term is Latin for “friend of the court.” When a pending lawsuit or appeal has the potential to have a broad impact beyond the particular parties to that case or factual situation, interested persons or organizations who are not parties sometimes file briefs in appellate or trial courts as amicus curiae, urging the court to rule one way or the other. The term derives from the idea that amicus briefs will assist the court by offering special perspectives and experience that can help crystallize public policy considerations. PSBA frequently participates in important appellate cases as amicus, as part of PSBA’s judicial advocacy efforts.

**Q: Do school districts have to comply with accounting and financial reporting requirements?**

**A:** Yes. Act 16 of 2000 requires that all financial accounting and reporting by school districts to the Department of Education must comport with “generally accepted accounting and reporting standards.” 24 P.S. § 2-218. The Department of Education’s School Accounting Manual provides specific rules for financial accounting and reporting by school districts. **B**

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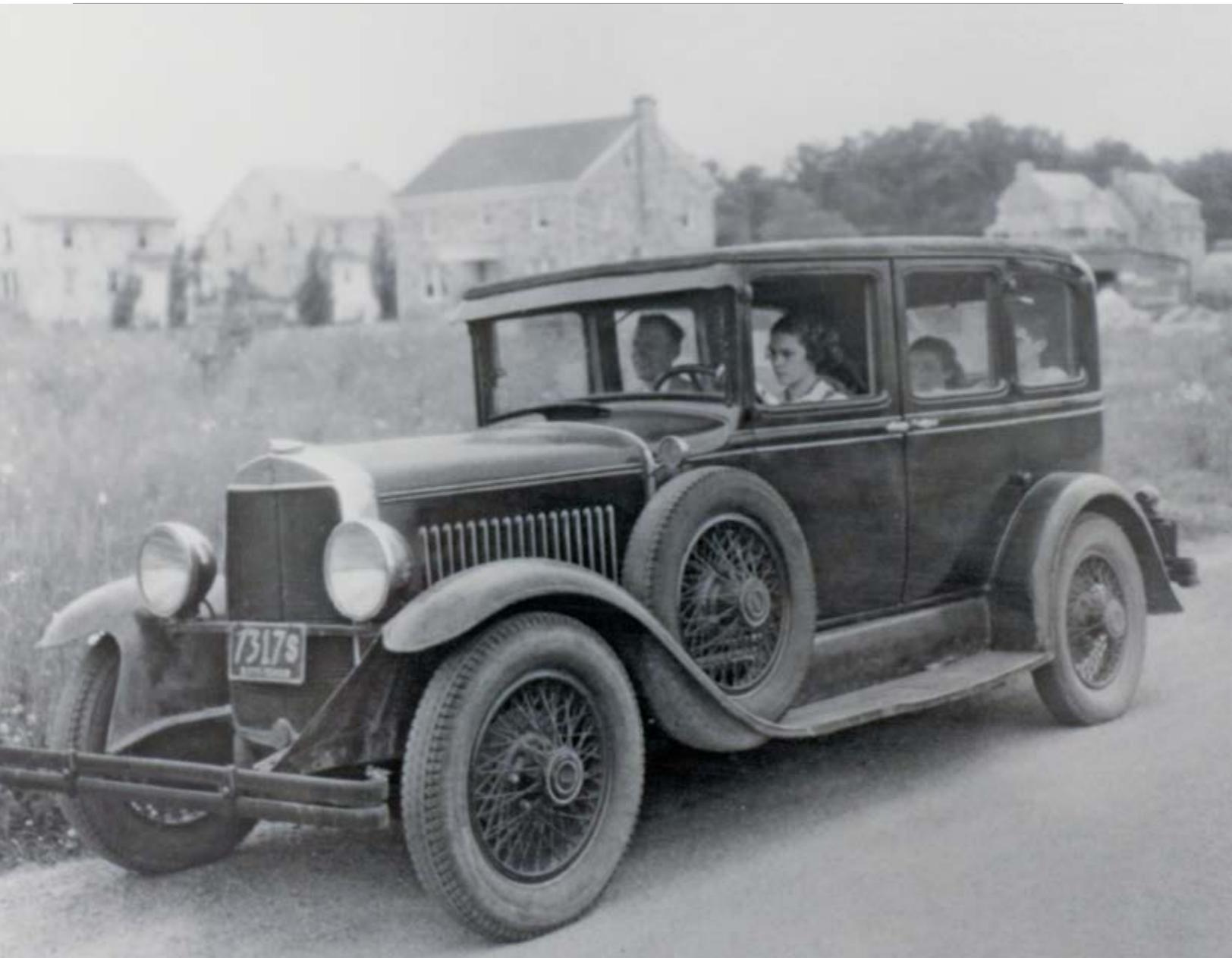
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In honor of PSBA's 125th anniversary, Worth 1,000 Words will feature noteworthy artifacts from the special anniversary collection this year.



Amos Neyhart teaches driving to State College Area High School (Centre Co.) student Vivian Doty Hensch in the first dual-controlled drivers education automobile in Pennsylvania. Neyhart, a Penn State professor, taught the first drivers education class in the nation at State College High in 1934-35.

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