



## A Remarkable Milestone for Attorney Ira Weiss

### *Weiss Education Fund Established*

In a remarkable milestone, Ira Weiss, WBK's founder and a revered leader in the legal community, is commemorating 50 years of dedicated service in the field of education and municipal law. With

unparalleled expertise, unwavering commitment, and an illustrious career spanning half a century, Ira has become a beacon of inspiration, shaping the future of education and municipal law in Pennsylvania. Ira's contributions have not only transformed the lives of students, educators, and institutions but have also set a standard of excellence that has earned him widespread respect and admiration.

Ira's commitment to our community and clients has left an indelible mark on the legal landscape. His profound impact extends far beyond the boardroom and courtroom, shaping policies, influencing legislation, and educating young lawyers and professional educators in our region.

Ira Weiss is a trailblazer, mentor, and true advocate for educational and municipal excellence. To honor this monumental achievement, Ira's colleagues at WBK, in partnership with The Pittsburgh Foundation, have established the Ira Weiss Education Fund to celebrate Ira's extraordinary legacy and to continue to give back to the educational community in our area. Look for more information regarding the Ira Weiss Education Fund on our website in November.

**Happy 50th Anniversary Ira!**

## Addressing Substitute Teacher Shortages

*by Nicole Williams, Esq.*

In December of 2021 and in response to the substitute teacher shortage which was worsened by the Covid-19 pandemic, the Pennsylvania State Legislature passed Act 91 into law. The Act expanded the pool of potential substitute teachers and began a classroom monitor program to help with classroom coverage needs in the 2021-22 and 2022-23 school years.



Nicole Williams

Some provisions of the Act were permanent, including the expansion of:

- the number of days certified educators assigned to substitute in a position outside their area of certification can serve
- the number of days teachers with inactive certificates can work as substitutes
- the number of days individuals with a bachelor's degree can serve as day-to-day substitute teachers

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## Change in Age of Eligibility for Free and Appropriate Public Education: What's the Latest?



Rebecca Hall

*by Rebecca Hall, Esq.*

On August 30, 2023, the Pennsylvania Department of Education (PDE) issued a memorandum titled "Change in Age of Eligibility for Free and Appropriate Public Education." PDE's memorandum and Frequently Asked Questions indicates that special education students who have not met graduation criteria may remain in school until they reach age 22. This is a change from the previous PDE policy and Section 1301 of the Pennsylvania School Code which provides the right to remain in school until the student meets graduation criteria or at the end of the school year which they turned 21.

The directive from PDE ordered this change to be implemented by September 5, 2023, and was the result of an apparent settlement of a lawsuit filed by the Public Interest Law Center on July 11, 2023. Although a Complaint was filed, there were no other pleadings issued, and the case was settled within a month-and-a-half with a 65-page settlement agreement.

Many school districts disagreed with PDE's new age-out policy. To challenge the new policy, on September 11, 2023, various school districts in cooperation with PSBA filed a Petition for Review in the Pennsylvania Commonwealth Court. The Petition for Review alleges that PDE committed violations of Section 1301 of the School Code (24 P.S. §13-1301), regulations of the State Board of Education (22 Pa. Code §11.12), Commonwealth Documents Law, and Regulatory Review Act. The Petition argues that PDE was not permitted to amend, modify, or repeal Pennsylvania statutes and regulations through a Penn-Link or other administrative processes. They argue that the new PDE policy will cause the limited resources already granted to schools to be exhausted even more, especially when the court had recently concluded that the school funding system in Pennsylvania was unconstitutional.

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## Substitute Teacher Shortages, *continued*

Other sections of the Act, like the classroom monitor program mentioned above, were only instituted for the 2021-2022 and 2022-2023 school years. Those sections included permitting individuals who were currently or recently enrolled in approved PA teacher preparation programs to serve as substitute teachers under a temporary certificate and permitting annuitants, or retired educators, to be hired, without the requirement that the school employer first attempt to hire a non-retired candidate, if, in the judgment of a school employer, an emergency or shortage of day-to-day substitute teachers exists. In this case, the retired educator would not lose their annuity or distributions, provided that the annuitant meets certain conditions as outlined in 24 PA.C.S. § 8346(b).

Now that some of the provisions expired at the end of the 2022-2023 school year, school employers are left with fewer options to fill teacher shortages that are still plaguing schools. The good news for school employers is that state legislators are working to reinstate the recently expired provisions of Act 91. In July of 2023, the Pennsylvania State House approved legislation that would continue allowing school employers to hire retired educators as substitute teachers without impact on their pension. This legislation is now part of the Omnibus School Code Amendments that are pending a vote by the State Senate which reconvenes this month. The amendments to the School Code, if passed, would permanently allow both retired educators and recent college graduates who completed an approved teacher preparation program to fill teacher vacancies on an emergency basis. The proposed amendments would also allow eligible college students to serve as substitute teachers through the 2025-2026 school year for 10 days and would extend the classroom monitor program through June 30, 2026.

While the School Code amendments are still awaiting a vote by the State Senate, we remain hopeful that the bill will be passed with additional tools for school entities to utilize when addressing substitute teacher shortages. Be on the lookout for updates from our office regarding the Omnibus School Code Amendments, when passed. ♦

## Weiss Burkardt Kramer is Now Offering Mediation Services

We are excited to announce that WBK now offers mediation services. Attorneys Megan Turnbull and Jocelyn Kramer are available to provide mediation services to help clients reach an amicable resolution to disputes and avoid time-consuming and costly litigation. In addition to our new mediation services, our office continues to offer specialized investigation services for school entities, including the investigation of Title IX, discrimination, and bullying/harassment complaints. WBK attorneys also offer training and professional development to help you fulfill your school's legal training requirements. Contact WBK for more information. ♦

## Change in Age of Eligibility, *continued*

In response, on September 29, 2023, PDE filed Preliminary Objections claiming a lack of subject matter jurisdiction, failure to plead a ripe claim, and lack of case or controversy. Responses to the Preliminary Objection are not yet due to be filed.

On October 4, 2023, PSBA filed an Application for Special Relief seeking among other things, that the Age-Out Rule should be rescinded and declared null and information reflecting the rescission is disseminated to schools, families, and Pennsylvania hearing officers. A response has not yet been filed.

As this matter moves forward, our office will continue to inform our clients of important developments in the case. If you would like additional information, the case is filed under the caption, *Pennsylvania School Boards Association, et al. v. Dr. Khalid N. Mumin, Secretary of the Pennsylvania Department of Education, et al.*, 409 MD 2023 (Pa. Commw. Ct.). ♦

## We're Speaking

- Attorney Annemarie Harr Eagle is partnering with the Duquesne University School of Education to offer a Special Education Learning Series at the Allegheny Intermediate Unit (AIU). The first two sessions were offered on September 14 and September 26, 2023, with future dates of: November 1, 2023, January 30, 2024, February 29, 2024, and March 7, 2024.
- On October 18, 2023, Attorney Harr Eagle spoke to the Pennsylvania Association of Career and Technical Administrators (PACTA) on the topic of Right to Know Law Updates for Business Managers.
- Attorney Harr Eagle and Attorney Nicole Williams will also present Right to Know Law Updates to the PASBO Southwest Human Resource Organization (SWHRO) at the SWHRO meeting on November 17, 2023. ♦

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