



NAIS•TABS
**LEGAL
SYMPOSIUM**
OCTOBER 18–19 PHILADELPHIA

THURSDAY, OCTOBER 18

9:00 – 11:00 am **Registration**

11:00 – 12:00 am **Risk Trends in Independent Schools**
Debra P. Wilson, General Counsel, NAIS

12:00 – 1:00 pm **Lunch with Topic Discussions**

1:00 – 2:00 pm **Session Set 1: 21st Century Issues** (Three to choose from):

1A • Understanding and Managing Issues in School Technology, Data, and Privacy

Sarah Hanawald, Executive Director, ATLAS; Whitney Silverman, Staff Attorney, NAIS

From apps which help students practice math to systems which store student medical information, almost every aspect of running a school has a technology component. The possibilities and logistics can be overwhelming—particularly at a small school. At their best, these programs enable independent schools to teach more effectively and ensure that campus runs smoothly and effectively. However, technological immersion is not without risk as these increasingly essential technologies also generate or contain sensitive information about employees, students, and families. Through dialogue and case studies, this session will help school leaders take a comprehensive approach in designing technology systems, protocols, and policies to maximize benefits and minimize legal and reputational risk.

1B • Local and National Legal and Risk Management Trends to Follow or Avoid

Donna Williamson, Partner, Liebert Cassidy Whitmore

Local, state, and national standards are meshing to create trends around the country. We will review hot-button issues on both Coasts, highlighting recent trends. Topics also include students, parents, staff, and the board. Even if a law does not require a particular policy inspiration can be found by looking across regional borders. Regarding students, this session will address bullying, hazing and sexual assault, revenge porn as the newest frontier of sexting. For employees, mandated reporting, evolving leave and wage issues. Outside of the classroom, challenging parents and board roles will be discussed. States can learn from each other to adopt sound practices.

1C • Practical Strategies for Managing Risks with Students and Technology

Sara Goldsmith Schwartz, President, Schwartz Hannum PC

In today's constantly evolving online world, what can schools do to protect students, employees and the institution from the myriad risks associated with technology? What can a school do when an anonymous individual sends racist emails to an entire grade of students? How should a school respond to an Instagram post of a student holding a bullet and making threats? Is an AUP still helpful and what should it include? When (and how) should law enforcement get involved in cyber-bullying, sexting, and racial harassment online? Which policies and protocols should schools have in place? In this lively, interactive session, an experienced school counsel will explore these hot topics and more, offering practical solutions for risk management of students and technology.

THURSDAY, OCTOBER 18 CONTINUED

2:00 – 2:15 pm **Break**

2:15– 3:15 pm **Session Set 2: Crisis or Politics** (Three to choose from):

2A • Strategies for Handling Threatening and Disturbing Behavior

Dr. Marisa Randazzo, Director of Threat Assessment, Georgetown University; David Wolowitz, Director & Co-chair of Education Law Group, McLane, Graf, Raulerson & Middleton PA

While media coverage focuses on the rare events of school shootings, schools face far more prevalent instances of extreme conduct, such as suicidality, threats on social media, and other concerning behavior. Do you have procedures in place to address threatening and troubling behavior when it arises? Do you know what to do if those behaviors arise from employees, parents, or visitors instead of students? This session will cover strategies and procedures schools should consider implementing to be prepared to handle a range of threatening and troubling behavior.

2B • All Hashtagged Up; Know Where to Go?

Heather J. Broadwater, Partner, Potomac Law Group, PLLC

Now that the demand for awareness made by #MeToo and the commitment to action made by #TimesUp have gone viral, the spotlight on sexual harassment issues is not as bright or steady. But, the issues are no less important and will not solve themselves by awareness alone. Worse, the focus of public attention is largely on environments materially different from places of employment and education, like independent schools. This session will provide a brief update on the legal landscape for harassment prevention and liability in the wake of the #metoo movement. We will discuss whether and how widely-reported stories can provide a compare and contrast framework for training to capture employee and student attention, while resolving lingering questions and confusion.

2C • Community Activism

Jane Hulbert, Consultant, The Jane Group ; James Hulbert, Partner, The Jane Group

Our communities – parents, alumna, students and faculty - are passionate about their school which is what we want until the passion spirals out of control. Community activism has become a stressful part of an educator's job. Educators and school leadership are finding themselves smack dab in the middle of issues ranging from trolls trying to destroy the reputation of the school, to parents' demands to expel a student because the father is a ruthless foreign dictator, to a single mother with two children who is a successful porn star. Our communities demand to be heard. We will discuss how to manage these behaviors and the importance of a Parent Code of Conduct.

3:15 – 3:30 pm **Break**

3:30 – 5:00 pm **Panel Discussion: Student on Student Sexual Assault**

Jessica Herbster, General Counsel, Phillips Academy Andover; Scott Schneider, Partner, Husch Blackwell; Debra P. Wilson, General Counsel, NAIS

Student on student sexual assault has continued to challenge schools as they attempt to handle reports that often local police and others will not touch. What is the tension between recommendations under Title IX and what might be in the best interest of the students involved? Should schools draw the line between on campus and off campus jurisdiction? If so, what does that look like? What do successful school models contain? Join this expert panel to learn more about the evolving expectations and challenges facing our industry.

5:00 – 6:30 pm **Reception**

FRIDAY, OCTOBER 19

7:00 – 7:45 am **Breakfast**

7:45 – 8:00 am **Intro for the Day:** Debra P. Wilson, General Counsel, NAIS

8:00 – 9:00 am **Sessions Set 3: Politics** (Three to choose from):

3A • Towns, Gowns and Taxes

Matthew C. Irish, Senior Vice President, O’Neill and Associates

Andrew Paven, Senior Vice President, O’Neill and Associates

With continuing stress on municipal budgets independent schools face increasing pressure, unique among non-profit organizations, to agree to payments in lieu of taxes (PILOTs) by their host communities. In our session we’ll discuss approaches that will lessen the probability that you’ll receive such a request, and how to react and respond if your home town targets your school.

3B • Trends in the Trump Administration

Debra P. Wilson, General Counsel, NAIS

The Trump Administration and this Congress have given us a wild ride so far. With midterms around the corner and political intrigue at every step, what among the unexpected can we potentially expect? More on taxes? Immigration and visas? What might actually help our schools? Come join this interactive dialogue to learn more!

3C • Lessons Learned from Student Activism in School Year 2017-18

Onik’a Gilliam, Of Counsel, Helsell Fetterman

Karen Kalzer, Partner, Helsell Fetterman

School year 2017–18 saw an increase in student activism and protest that many schools were unprepared for. During this session we will review student walkout case studies, address the leadership, student, and legal issues implicated, and offer guidance for responding to student-initiated walkouts in the future. Discussion areas include appreciating the risks involved in the desired activity; weighing whether to support the activity on an institutional level and understanding the risks involved if you do; managing the school’s support; to being prepared for the outcome if you choose not to support.

9:00 – 9:15 am **Break**

9:15 – 10:15 am **Sessions Set 4: Managing People** (Three to choose from):

4A • Managing Staff: Top Five Employment Claims Brought Against Independent Schools

Suzanne Bogdan, Partner, Fisher & Phillips LLP

Although there are some employment law issues that independent schools are likely to encounter on a yearly basis, such as FMLA, there are also timely and unique issues that are on the legal cusp and will certainly be encountered, such as transgender issues and unique mental health issues. It is imperative that the school leaders have an understanding of how to address such issues from a legal perspective. This session will explore five of the most difficult issues likely to be encountered during the 2018/2019 school year, and will provide an action plan for dealing with each of those issues.

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4B • Managing Students: A Day in the Life of a Dean

Julie C. Fay, Partner, Shipman & Goodwin, LLP

Addressing student discipline issues can be complex and challenging. This session will address legal issues and best practices on issues such as misuse of social media, searching student phones, vaping, and how to develop an effective and compliant student handbook. As part of this discussion, we will discuss challenges in developing sexual misconduct policies, addressing confidentiality issues and establishing effective adjudication process

4C • How to Manage Today's Parent

Candice Pinares-Baez, Attorney, Fisher & Phillips LLP

Many schools yearn for the parents of 20 years ago when they paid the tuition timely, freely volunteered, believed everything the school said, and otherwise stayed out of the way. Unfortunately, many schools find today's parents, who are highly educated, active, aggressive, a lawyer or have a lawyer on retainer, much more difficult to deal with. Whether it is a disagreement about a child's grade, an allegation of bullying, a request for accommodation, or behaviors relating to an ugly child custody matter, school administrators and teachers find that they spend substantial time each year managing today's parent. The challenge today is to ensure that the relationship remains respectful and professional, and the school regains control. This program will use new case studies to address legal and practical ways schools can position themselves to manage the parent relationship.

10:00 – 10:15 am **Break**

10:30 am – 12:00 pm **Facilitated Table Top Discussions** (option to choose 3 Discussion Tables out of 8 topics)

12:00 – 1:00 pm **Lunch**

1:00 – 2:00 pm **Sessions Set 5: The Unexpected** (Three to choose from):

5A • How to Prepare for Active Shooters & Other Life Threatening Emergencies on Campus

Chris Joffe, Chief Executive Officer, Joffe Emergency Services

Join us for a collaborative and engaging conversation about active shooters, emergency preparedness and crisis management. We'll discuss 3 strategies you can and should implement today to prevent active shooters and other emergencies, 3 steps to take to train faculty, staff and others on campus for an event and 3 steps to take if and when an emergency occurs on campus. We'll will share several case studies with opportunities for learning at every turn as well as a good emergency plan, a bad emergency plan, and a guide to building community confidence in preparing for emergencies. Participants will leave this session with an action plan to take back to their campuses to implement the 9 principles discussed.

5B • Business Continuity: The Morning After

Karen Kalzer, Partner, Helsell Fetterman; Derek Symer, Principal, AHT Insurance

Business continuity is an essential aspect of your overall crisis planning and addresses the ability of your school to operate within and recover from the crisis at hand. The presenters will discuss the tools and resources you may have or access to recover, and how to prioritize and address key functions in order to best continue operations even when the worst occurs. Be prepared, be resilient.

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FRIDAY, OCTOBER 19 CONTINUED

5C • Sexual Assault Crisis On Campus

Scott Schneider, Partner, Husch Blackwell

Student on student sexual assault reports can trigger a number of responses within independent schools, any one of which can trigger a minefield of complicated issues. Should day schools exercise off-campus jurisdiction? What are the potential consequences if they don't? What other kinds of steps or responses might the school consider? What is the appropriate role for the board in an investigation? Who knows what and when? And, what does a school do with students that will not cooperate with the school's process? All of this and more will be covered in this interactive, case-study driven session designed to give schools a window into how independent schools are currently approaching this vital issue.

2:00 – 2:15 pm

Break

2:15 – 3:15 pm

Sessions Set 6: Risk Management & Prevention (Three to choose from):

6A • Proactive Legal Strategies that Hardwire Safe Teaching and Learning Environments

Caryn G. Pass, Partner & Chair Education Practice, Venable, LLP

Do you need help pinpointing all points of risk at your school? Can you then identify steps that will help to mitigate the risk of harm? This session delves into areas that warrant the most risk such as:

- Contact with adults (parents, employees, consultants, contractors, coaches, tutors, etc.)
- Contact with students (existing and new, those at other schools and alumni)
- Physical plant – classrooms & meeting rooms, locker rooms, theatre changing area, remote areas on property and dorms
- Activities – international trips, overnight local trips (sports competitions, model UN, robotics events, etc)

6B • Preventing Rape Culture

Linda Johnson, Esquire, McLane, Graf, Raulerson & Middleton Professional Association

The phrase "rape culture" elicits strong emotions. It is a term used to describe an environment where rape is prevalent and sexual violence is normalized and excused as part of current culture. Learn steps high schools are taking to address views about rape culture including policies and educational awareness on consent, dating violence, healthy relationships, sexual assault, bystander intervention, and anonymous reporting as well as providing opportunities for student lead programs that empower students to promote respect, have a voice and promote a healthy culture and school environment.

6C • Trends: Navigating Health, Safety and Security Abroad

Bill Frederick, Founder and Director, Lodestone Safety International

The hazard landscape for international programming has evolved with increasing rapidity over the past twenty years, even as the number of American students traveling abroad for education has increased. In this session we'll survey some of the most rapidly changing risks and the tools and risk management strategies that have emerged to manage them. Interactive scenarios will be interspersed with data, content presentations and discussion.

3:15 – 3:30 pm

Closing Comments

Pete Upham, Executive Director, TABS

Debra P. Wilson, General Counsel, NAIS