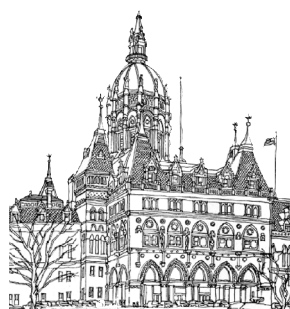


Vol. 25, No. 2

View from the Capitol

Patrice McCarthy
DEPUTY DIRECTOR AND GENERAL COUNSEL, CABE



The Connecticut General Assembly convened on January 6, committed to fulfill their constitutional responsibility despite

the many challenges posed by the pandemic. Under rules adopted by the Legislature, committee meetings and public hearings will be held on a virtual platform as the public health crisis continues.

At their organizational meetings, committee co-chairs have all emphasized the importance of transparency and the need to proceed in a deliberative fashion to insure that the voices of legislators and members of the public are heard. The use of technology for public hearings will enable board members and superintendents to testify without making the trip to Hartford. However, patience will be needed as legislators work through the virtual process.

The Education Committee has 15 new members, but most of them are veteran legislators. The positive working relationship among the committee leadership will be essential to addressing critical education issues this session, including the resources needed for students to recover learning loss due to the pandemic, social and emotional needs, and creating a more diverse educator workforce.



Fun in the Snow!

Commissioner Cardona tapped by President-Elect Biden

Robert Rader
EXECUTIVE DIRECTOR, CABE AND

Patrice McCarthy
DEPUTY DIRECTOR AND GENERAL COUNSEL, CABE

CABE is delighted that Education Commissioner **Miguel Cardona** has been selected by **President-Elect Biden** to be **Secretary of Education**. We know that Dr. Cardona is a hard-working, thoughtful and innovative individual, who is collaborative in style, empathetic in his approach to education and sensitive to the needs of all students, especially those who are learning English, or have disabilities.

Dr. Cardona's New Role

If approved by the U.S. Senate, Dr. Cardona will be responsible for the federal Department of Education, which employs approximately 4,000 and operates on a \$68 billion budget. He will be the first secretary to have come from Connecticut.

As school board members and superintendents know, most school



Miguel Cardona

governance is left to the states and individual school districts. The Department of Education states that the secretary is "responsible for the overall direction, supervision, and coordination of all activities of the Department and is the principal adviser to the President on Federal policies, programs and activities related to education in the United States".

According to the website the Department is charged with:

- Establishing policies on federal financial aid for education and

See **VIRTUAL ASSEMBLY** page 6

February, 2021

Making Ridgefield High School "No Place for Hate"

Jennifer Phostole
ASSISTANT PRINCIPAL, RIDGEFIELD HIGH SCHOOL

"If every member of my generation sits back and does nothing to combat the issues we face, no positive change will ever occur. We all must choose to act," **Riley Courtney**, **Ridgefield High School (RHS)** 12th grade student, explained when asked why he believed it was important to organize an **Anti-Defamation League (ADL) No Place for Hate (NPFH)** activity.

These sentiments are not unique to Courtney, but they are representative of students involved in the movement started at RHS this year. RHS is working to be one of the first schools in Connecticut to receive the ADL's **No Place for Hate** designation.

RHS is in its seventh year partnering with the ADL in making the school's mission of building "resilience, citizenship, and empathy" for all students a reality. ADL educational programs at RHS improve the school's climate and culture while creating a more inclusive environment for all students. RHS currently sponsors two annual ADL programs, *Names Can Really Hurt Us* and *Becoming an Ally*. Staff has also participated in school-wide professional development training to support teachers in recognizing bias in their classrooms.

Implementing the ADL's **No Place for Hate** initiative this year is the next step in actualizing the school's mission. Working towards the designation will connect all of the continuing work and give new opportunities for students to design and implement school-wide activities. All of this work has the common goal of systematically addressing and reducing bias and prejudice.

The program, as designed by the ADL, requires schools to form a NPFH Committee, have a school wide

See **RIDGEFIELD HS** page 7

inside	6 Connecticut Praise for Dr. Cardona	7 Letter to the Editor	8 Responding to Hateful Speech in School
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PRESIDENT COMMENTARY

Where Do We Go From Here?

Donald Harris
PRESIDENT, CABE

Like many of you, I reserved Wednesday, January 6, 2021, as a day to watch on television the certification of the President-Elect **Joseph Biden** and Vice President-Elect **Kamala Harris**. What I did not pay a lot of attention to was a **Stop the Steal** rally that was held near the White House.

During the rally, various speakers such as Rudy Giuliani and the President called for “trial by combat” with a warning to Republican members of Congress who failed to support the pro-Trump efforts. He encouraged his supporters to go to the Capitol to support members of Congress objecting to the certification.

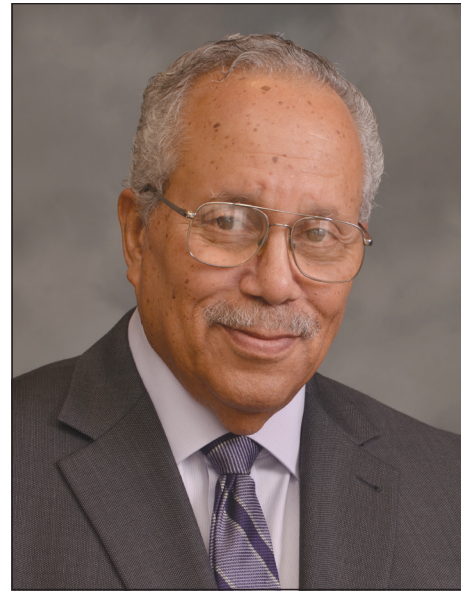
The process, which is largely ceremonial, had begun with an expected objection raised on the validity of the vote from Arizona when the proceedings were placed on hold because of assault on the Capitol by a large group of insurgents.

I watched in horror to see a man walking in the Rotunda carrying a large Confederate flag, another man with a Trump flag taking a picture standing on the base of a statue of one

of our founders and watched another sitting in Speaker Nancy Pelosi’s office with his feet up on the desk, after physically trashing her office. I watched, probably with my mouth wide open, shocked that this was happening in the United States of America and they were breaking into the nation’s Capitol. If I hadn’t been so angry at what I was watching, I would have shed many tears. We were taught, growing up, to respect our country and then we had to witness this desecration.

As school board members and education supporters within the State of Connecticut, we do what we do because of our love for children with a desire to provide the best education for them. The National School Boards Association (NSBA) President Charlie Wilson expressed it best by stating, “Our mission is uplifting and protecting the rule of law. Law is the architect that undergirds society. It is our responsibility as locally-elected school board members to serve at all times as guardians of the principles of democracy, of liberty, of equality, of civility, of community, and of the Constitution and the rule of law”.

As school board members, the whole issue of democracy needs to



be modeled. This is what the Civics course taught in our school systems is all about.

One of my heroes and the first African American named to serve on the highest court in the land, the Supreme Court, was Justice Thurgood Marshall. Marshall was well-known as a friend to education. He was the lead attorney in the 1954 landmark case *Brown v. Board of Education*. He once described his judicial approach by simply saying, “you do what you think is right and let the law catch up”. One of his most powerful quotes was, “Where you see wrong or inequality or injustice, speak out because this is your country. This is your democracy. Make it. Protect it. Pass it on.”

2020 was a tough year for all of us. The deaths of George Floyd, Breonna Taylor and others were responsible for the birth of the Black Lives Matter movement. For the first time, this movement was accepted by black, brown, white members of the community, from young children to seniors. The problem is that there is still a significant group that is on the sidelines not buying into the concept.

The major issue with 2020 was the onset of the COVID-19 pandemic which not only hit us here in the States but has appeared all over the world. We have had to learn a new vocabulary to include hybrid education, social distancing, masking and virtual learning.

We have had to be sure that all our children had methods to connect from their homes back to the schools. Not only did the children need computers, i-Pads or phones, they also needed wi-fi connections.

Before this article is printed, a new President and Vice President will be sworn in and inaugurated. My fervent hope and prayer is that what happened on January 6, 2021 is a leftover from 2020. I’m looking forward to all of us being provided with the vaccine, COVID-19 beginning to disappear and a return to a “new” sense of normalcy.



Mission: To assist local and regional boards of education in providing high quality education for all Connecticut children through effective leadership.

Vision: C.A.B.E. is passionate about strengthening public education through high-performing, transformative local school board/superintendent leadership teams that inspire success for each child.

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Culture, Climate and Civility

Board members set the tone for the district

- Public meetings
- E-mails
- Social Media

Connecticut Association of Boards of Education

On January 12 C.A.B.E. Deputy Director and General Counsel Patrice McCarthy, Executive Director Robert Rader, and First Vice President Liz Brown (Waterbury) presented a webinar on Culture, Climate and Civility.

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EXECUTIVE DIRECTOR COMMENTARY

The Leader's Perspective

Robert Rader
EXECUTIVE DIRECTOR, CABE

At the 12th Annual Peter Drucker Forum, there was a discussion of the kinds of questions that leaders ask. You might remember that Peter Drucker was a longtime management consultant whose writings helped form the basis of the processes that run many businesses today.

The forum featured a discussion with John Hagel, a management consultant and author of *Net Gain: Expanding Markets through Virtual Communities* and Moderator Senior Editor Julia Kirby of the *Harvard University Press*.^{*} According to the article's author, Hagel contrasted leaders in private and in the public. He stated that in "the privacy of leadership meetings, leaders ask questions all the time: *How can we increase our productivity by 10 percent?* or, *Are you sure you have done everything to get this done?*" On the other hand, when speaking in public, leaders tend to rarely ask questions and if they do, they supply the answers.

Hagel believes that there is great transformation taking place from old business models centered around "scalable efficiency" and moving towards "scalable learning." This new management model is "not just running through training or HR development but rather means generating new knowledge and learning through actions together with others. In a rapidly changing world, the organizations that will succeed in this world are the ones that will be able to learn faster at scale than others."

In the past, strong leaders used to be seen as those who have an answer to every question. A real example from the discussion: in the past, if customers complained about the pizza at Domino's, the leaders would have "hushed up the statement and punished those responsible for the recipes." Today, their managers would make the complaint public and ask their customers how to make even better pizzas.

The key to success in the future is, according to Hagel, a paradigm in which all employees must be "knowledge" workers, because rote work will be done through technology. Part of the key to being successful is to ask more powerful and even inspiring questions. By looking ahead at a distance, maybe 10 years, try to understand the changes that will take place,

but, also look at what can be done in the short time frame. It is by asking questions that the knowledge worker will provide value to the company.

Why do I bring this up to school board members and superintendents?

Leadership Lessons

These lessons are important in several ways:

If you asked anyone at our Day on the Hill last March 11 what the next 10 months would be like, who would answer that we would become isolated, often working at home and wearing masks if we stepped outdoors? Students would be educated by computer? "Hybrid" would be a new common word?

Really, who knew or could have predicted?

Nobody could have predicted that we would have a "once in a century" pandemic, unless maybe some obscure (now, they're probably famous) experts in infectious diseases. However, the impossible-to-predict scenarios include positive as well as negative occurrences. Who could predict that scientists could come up with vaccines in less than a year, when usually it takes several?

This leads me to the following:

First, it is critical that we think about how we prepare our children to be the knowledge workers of tomorrow. For example, memorization of dates and multiplication is certainly looked at as "old school", but, some basic knowledge enables immediate ability to set things in context. For example, if an employee or anyone else is discussing American history, it is critical (and expected) that the person knows why 1492, 1619 and 1860 were important. If the person is taking care of her checkbook, a basic knowledge of multiplication and division is, again, both critical and expected.

Critical thinking can only work if paired with basic knowledge.

Just as important as encouraging curiosity and creativity in our students, we must help them develop the ability to ask the questions that reveal the information needed to make good decisions. Knowing what, when and how to ask the right questions is an art, rather than a science, just ask fictional detective Columbo!

This is especially true as we ask them to do more personalized learning.

Second, this ability and willingness to ask the right questions also is



critical to school board members and superintendents as they make decisions. While there is no doubt that asking the right questions does not always lead to the correct answers, it is always a step along that path.

The key is not in predicting exactly what will happen in the future; no one is that prescient. However, having board members and superintendents asking questions is critical in helping districts think "outside the box", develop adaptability and flexibility to rise to a challenge once it presents itself and to develop a culture of learning.

Recognize Leadership in Connecticut

As we begin to see the light at the end of this long, dark tunnel, it is more important than ever to recognize the leadership of board members, superintendents, principals, teachers and all the other members of our Connecticut education system, including Governor Lamont, the State Board of Education, State Departments of Education and Health who have risen to this challenge.

No, our response was not perfect. It took us a while to understand so much about the novel Corona 19 virus.

But, who knew what we would be faced with?

And, this gives me the opportunity to thank Commissioner Miguel Cardona for his leadership and that of his Senior Staff in helping all of us get through this period. As both a professional colleague and a friend, I write on behalf of the CABE Board of Directors, Staff and all of our members in wishing him the very best as he takes over as Secretary of Education, a job shared by only a few education giants over the years.

He will, also be, if approved by the Senate, the first Secretary of Education from Connecticut.

We not only offer our best, but, will be there to help him as he, the Department of Education and the Nation move forward.

See You in Court – The Nutmeg Board of Education

COVID-19 Vaccinations in Nutmeg

Thomas B. Mooney, Esq.
SHIPMAN & GOODWIN

The Nutmeg Board of Education makes many mistakes. The latest imbroglio created by the board will be reported here each issue, followed by an explanation of what the board should have done. Though not intended as legal advice, these situations may help board members avoid common problems.

The members of the Nutmeg Board of Education were frustrated. They have heard loud and clear from parents and others in the school community that they want in-person instruction. However, it seemed to the Board members that it was always one step forward and two steps back. Just last week, Acorn Elementary School had to switch over to remote learning because students from three different families were all diagnosed as positive for COVID when school reconvened for in-person learning after the holiday break.

Veteran Board member Bob Bombast was particularly incensed at what he considered irresponsible parent behavior in traveling for the holidays and not keeping their children safe. Bob shot off an angry email to Ms. Superintendent demanding that she share with Bob the names of the students and their parents so that he could give them a piece of his mind. Ms. Superintendent was polite, but firm in informing Bob that he was not entitled to that information, but Bob wasn't buying it. He told Ms. Superintendent that he would be bringing his concerns over her insubordination to the Board for discussion in executive session.

In the meantime, Bob was heartened by the roll-out of the COVID vaccines and the priority teachers and other school employees were to receive under the recommendations of the COVID-19 Vaccine Advisory Group. Bob went on Twitter to promise that Nutmeg would be the first school district in Connecticut to vaccinate 100% of its employees by April 1. "And when we are done with the employees, the students are next!" he vowed.

The response on Twitter to Bob's grandiose promise was mixed. While Bob got some retweets, the prevailing sentiment was that Bob's plan was too ambitious, and one person even asked whether Bob's tweet was an early April Fool's joke. This skepticism simply served to stiffen Bob's resolve, and he set out to show the doubters that he could deliver on his promise.

At the next meeting of the Nutmeg Board of Education, Bob unveiled Operation Shot-in-the Arm, his plan for vaccinations in the Nutmeg Public Schools. Under Bob's plan vaccination would be required for all school staff, no ifs, ands or buts. To facilitate this process, Bob's plan called for paid time off for employees to get the vaccine, and employees would be expected to offer

proof of vaccination within the next thirty days. Or else.

Ms. Superintendent was annoyed with Bob's presumption, and she started to explain that the situation is complicated and asked that the Board step back and let her do her job. However, Bob shooshed her, and he went on and on about how universal vaccination of the Nutmeg staff is the key to getting back to in-person learning and staying there.

Other Board members were uncertain about the wisdom of adopting such an ambitious plan. Fellow Board member Mal Content asked Bob to clarify – "Or else, what, Bob?" Bob was only too happy to clarify. Referring to the extraordinary loss of life as a result of the pandemic, Bob responded that those teachers and other staff members who did not comply with the required vaccination program would be fired, simple as that.

Ms. Superintendent spoke up at this point, and she warned the Board that the situation was by no means as "simple as that." But the other Board members did not want to be outdone by Bob. Mal Content seconded Bob's motion, and with no further discussion the Board approved Bob's plan.

Is the Nutmeg Board of Education on the right track here?

• • • • •

Sadly, no. Starting with Bob's proposal for mandatory vaccinations, we note that the EEOC has provided guidance during this pandemic that would permit employers to establish mandatory vaccination programs if they are justified by business necessity. But adopting such a plan involves many competing considerations that Bob has ignored.

First, we must ask whether adopting mandatory vaccination program would be premature. So far, the FDC has given certain vaccines only "emergency use authorization" rather than outright approval. Under these circumstances, employers may be reluctant to move forward with a mandatory vaccination program.

Second, the EEOC guidance on mandatory vaccination programs is clear that such plans must provide for certain exceptions, unlike the plan Bob proposes. Some employees may object to taking the vaccine due to disability and/or religious objections, and employers must respect those objections. Specifically, the employer must seek to accommodate those employees, because the employer would discriminate against such employees on the basis of disability or religion if it does not do so. The EEOC guidance contemplates that there may be situations in which such objections cannot be accommodated, and in such cases the employer may terminate the employee. However, that would be a tall hill for school boards to climb. Employers can take such dramatic action only if the unvaccinated employee (1) poses a direct threat to the safety of others and

(2) there is no reasonable way to accommodate the employee.

An employing school district would be hard-pressed to demonstrate that either condition could be met for a teacher or other school employee who could not be vaccinated. For months now, school districts have taken the position that school can proceed without undue risk by providing personal protective equipment and taking other remedial measures. Moreover, boards of education have allowed remote work in many situations. It is hard to imagine a circumstance now when a non-vaccinated employee would pose such a threat that termination of employment is the only option.

A related point is that districts cannot require that students be vaccinated under current law. While we may hope over time that most parents will arrange for the vaccination of their children, that will remain a personal family choice unless and until the General Assembly revises Conn. Gen. Stat. 10-204a to require immunization against COVID. Given that some students will thus be attending school without vaccination, it is hard to see how a school district could argue that a teacher who is not vaccinated is a "direct threat" to health and safety.

Bob's plan also fails to recognize that a board-sponsored vaccination plan, mandatory or voluntary, would be a change in working conditions

that would require consultation and, if requested, negotiations with the unions for the affected employees. While the State Board of Labor Relations (SBLR) has not ruled on the subject, it is likely that adoption of a vaccination program would be viewed as a management prerogative, and that negotiations would not be required over the decision itself (decisional bargaining). However, it is likely that the SBLR would rule that the employing board must negotiate over the impact of the program. Providing time off for such vaccinations is fine, but the Board could not make that decision unilaterally.

Finally, Bob was off-base in demanding that Ms. Superintendent give him the names of the families whose children tested positive for COVID. That medical information about specific students is confidential under FERPA. Since Bob was not responsible for the related operational concerns, he (and other Board members) would not have a need for the information to do their jobs. Accordingly, they would have no right to receive it.

Attorney Thomas B. Mooney is a partner in the Hartford law firm of Shipman & Goodwin who works frequently with boards of education. Mooney is a regular contributor to the CABA Journal. Shipman & Goodwin is a CABA Business Affiliate.

The Ninth Edition – Now Available!

A Practical Guide to Connecticut School Law by Thomas B. Mooney, Esq. Shipman & Goodwin

CABA is delighted to announce that the Ninth Edition of Tom Mooney's Practical Guide to Connecticut School Law is now available.

PRICING: CABA Members: \$54.99; CABA Non-Members: \$79.99; Students: \$44.99

There have been many changes in school law in the last few years, and the Ninth Edition has been extensively revised to provide updated guidance on the legal issues that govern our schools. Changes include descriptions and commentary on:

- Changes in teacher evaluation and teacher tenure.
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- New requirements concerning student data privacy.
- New rules for suspension, expulsion and alternative educational opportunities.
- Revised requirements governing seclusion and restraint.
- The new "Every Student Succeeds Act" and how it has changed "No Child Left Behind Act" requirements.
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LEARNING

(continued from page 1)

distribution as well as monitoring those funds.

- Collecting data on U.S. schools and disseminating research.
- Focusing national attention on key educational issues.
- Prohibiting discrimination and ensuring equal access to education.

Across the country, about 8 percent of funding for public education comes from the federal government. Because of its relative wealth, Connecticut receives about 5 percent of its revenues from the federal government.

The Department’s ability to grant funds comes with the responsibility to ensure those funds are being properly applied. The Office of Inspector General conducts independent audits and investigations of funds provided to recipients suspected of committing fraud or abuse.

The Department of Education also investigates alleged cases of discrimination. These cases are handled through the department’s Office of Civil Rights. The Office helps ensure no students are discriminated against on the basis of race, national origin, sex, disability, or age.

Despite the lack of direct authority over school systems, the Secretary can use his or her position to influence federal, state and local policy. Whatever the Secretary chooses to discuss is likely to end up being a topic of conversation in state houses and on school boards.

Connecticut Praise for Dr. Cardona

“Miguel is a great champion of equity and diversity for all students. He is bright, sensitive, collaborative, and a pleasure to work with.”
– **Donald Harris, CABE President (Bloomfield)**

“I am thrilled that Dr. Miguel Cardona has been nominated to serve as the next Secretary of Education! Dr. Cardona is a good friend of public education and of CABE. I’ve had the privilege of working closely with him over the past few years, and it is clear that Dr. Cardona cares deeply about the issues facing education, such as the need to ensure equity for all students, including those who are not English speakers and those with disabilities. While Dr. Cardona will be missed in Connecticut, I know the tone and direction he will set as Education Secretary will be positive for the nation.”

– **Bob Rader, Executive Director, CABE**

“Commissioner Cardona’s very collaborative style will be a huge asset as Secretary of Education. This collaboration is a hallmark of his work to insure educational opportunities for all students in Connecticut, especially during the pandemic. Now students across the nation will benefit from his expertise.”

– **Patrice McCarthy, Deputy Director and General Counsel, CABE**

“As a BOE Member from Simsbury and a member of the NSBA Board of Directors, I am pleased to hear of the nomination of Commissioner Miguel Cardona for Secretary of Education. His investments in districts amid COVID-19 have shown that every child matters, while student safety and achievement are at the forefront. We are fortunate to have benefitted from his leadership and look forward to his continued success on the federal level helping to reshape public policy and advocate for each child.”

– **Lydia Tedone, Member of the NSBA Board of Directors (Simsbury)**

“A great day for public education! Commissioner Cardona lives and believes in equity for all students!”

– **Liz Brown, CABE First Vice President (Waterbury)**

“I’m delighted that he’s been chosen and know that our loss of this passionate teacher-leader will benefit all kids in our country as Connecticut students, families and teachers have.”

– **Meg Scata, Portland**

“I’m very pleased with the nomination and the endless possibilities in Washington and Hartford.”

– **Leonard Lockhart, CABE Area 2 Co-Director (Windsor)**

“This is wonderful news. Dr. Cardona has tremendous integrity and relevant experience to share with the children, families and educators of the nation.”

– **Ann Gruenberg, CABE Immediate Past President (Hampton)**

“Of course it’s wonderful but the sad part is Connecticut is losing an excellent commissioner.”

– **John Prins, CABE Secretary/Treasurer (Branford)**

A huge positive

While we are sorry that Dr. Cardona will leave SDE, his new nationwide post will give him a much wider platform and opportunity to influence the education of many millions of children. That will

be a huge positive for our nation.

Dr. Cardona works hard for public education and we believe that the relationship with boards of education and other members of our education community will be immensely improved

with Dr. Cardona in this powerful new position.

We wish Dr. Cardona well and look forward to continuing to work with him at the federal level!



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Letter to the Editor

Ann Gruenberg

CABE IMMEDIATE PAST PRESIDENT
HAMPTON BOARD OF EDUCATION MEMBER

For decades teams of advocates, school board members, administrators and CABE staff, have convened in Washington, DC with leaders from other states and countries for an annual leadership/advocacy event. These meetings have been highly stimulating and informative, with workshops on relevant topics including detailed background on key subjects regarding current legislation.

Coaching for lobbying is always useful.

While each year is different, there are some common threads from year to year, including a sense of awe and deep respect for the systems of governance. The tone is often exhilarating, fueling a sense of purpose with hope for people working together for the greater good. During the culminating “Day on the Hill” we would meet with legislators and/or their staff to discuss key issues.

We demonstrate mutual respect and establish working relationships based on mutual trust and a

willingness to work together. Imagine our excitement when Commissioner Miguel Cardona was nominated to be Secretary of Education! His commitment to quality education for all students and his collaborative, thoughtful style will be an asset in his national role.

These experiences stand in sharp contrast to the riots that occurred in the hallowed halls of the Capitol on January 6, 2021. At least six people lost their lives as a result of the siege which no doubt will be remembered in perpetuity. The informed

discussions conducted with civility were absent from the dangerous mob that descended on the Capitol and interrupted the work of Congress. Resolute that the work of government must continue, members of Congress bravely returned to the Capitol later that evening.

Beginning at the local level, we must take responsibility to model the civil debate of important ideas, and rebuild a nation that values that discourse.

RIDGEFIELD HS

(continued from page 1)

NPFH pledge signing, and hold at least three activities that emphasize a discussion component. In order to encourage more students to be involved and to give students ownership of the movement, RHS added a NPFH Student Ambassador component.

NPFH student ambassadors have the responsibility of being role models for their peers and living the pledge. Each quarter, students reflect on how their actions support the pledge and these stories are then shared through social media with the goal of inspiring others actions. It is also their responsibility to spearhead *No Place for Hate* activities based on the issues they believe are important to themselves and their community.

All NPFH activities are student-designed and implemented. RHS currently has 61 student ambassadors ranging in grade from freshman to senior.

Kate Bucci, RHS Student Body President, described the enthusiasm of her peers that are participating. She said, “Getting to see so many people that are truly invested in improving our school and town community gives me so much hope for the future of the school. It warms my heart to see people looking out for one another and looking to spread kindness in such a difficult time.”

Starting this initiative during a year characterized by a global pandemic, hybrid learning, economic struggle for many, and racial injustice has not been an easy feat. However, the commitment of students to sponsor NPFH activities with their student groups has been heartening. Many attribute their inspiration to current events. **Lauren Kim**, RHS 11th grade student, explained what motivated her

to start a NPFH podcast. “[My goal] this year was to promote compassion and interconnectedness within the school community.

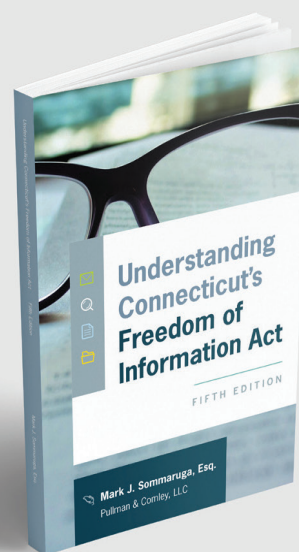
By hosting a series of episodes in collaboration with *No Place for Hate* ambassadors, our podcast will help students better understand the impacts of bias and microaggressions in our everyday lives.” **Kaylie Perhamus**, RHS 11th grade student, described what she hopes the impact of her activity, “NPFH 2021 Intentional Acts of Respect,” will have on RHS. “This activity will leave a lasting impression on the legacy of Ridgefield High School, [motivating] my peers and me to push to create an atmosphere where hate is never tolerated,” shared Perhamus. Other NPFH activities include, a discussion series on race, a speaker series that addresses various modern day topics, and a campaign to get students to critically think about their use of social media and its impact on bias and prejudice inspired by the documentary *Social Dilemma*.

RHS has the goal of renewing the *No Place for Hate* designation every year and is looking to expand on activity offerings and integrating more anti-bias curriculum into the classroom. Future steps may also include the expansion of the program into the middle schools. Expanding in this manner would make Ridgefield an ADL *No Place for Hate* district. In this model, students would commit to being a student ambassador and living the pledge for a large part of their formative years. As **Kavya Podila**, RHS 10th grade student, describes it, “Spreading awareness about *No Place for Hate* to our school has shown me the amount of teamwork that goes into creating a prejudice-free environment.” In the future, this teamwork could include district and community work.

As **Ruth Bader Ginsberg** said, “real change, enduring change, happens one step at a time.” Each time, as a result of their participation in a NPFH activity, a student engages in a respectful discussion, a student is challenged to think about language and its impact on their peers, a student supports a fellow human as an ally, a

student takes ownership of their actions, or a student imagines how their individual and collective actions can make RHS a more inclusive place, it is that one step in making real, enduring change, that will ultimately make RHS a more inclusive place that values respect, empathy, and equity.

JUST RELEASED...



Understanding Connecticut's Freedom of Information Act Fifth Edition

By Mark Sommaruga, Esq., Pullman & Comley, LLC

Ideal for school districts, municipalities, state agencies and other public agencies!

The Connecticut Freedom of Information Act (“FOIA”), often called the “Sunshine Law,” is a series of laws that guarantee the public access to meetings and records of governmental entities in Connecticut. The FOIA also sets forth numerous exceptions to its open meetings and records requirements. Over the years, however, both the FOIA and its exceptions have often been misconstrued.

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THE POLICY CORNER

Vincent A. Mustaro

SENIOR STAFF ASSOCIATE FOR POLICY SERVICE, CABE

Responding to Hateful Speech in Schools

Schools across the country have seen hate filled speech increase as students emulated the divisive language common in national rhetoric and policy.

A national UCLA study found that “teachers are seeing increased incivility, intolerance and polarization in classrooms, heightened polarization on campus and an increase in students making derogatory remarks about other groups during class discussions. The study indicates what educators across the nation are facing. Explicitly racist, Islamophobia, xenophobic, homophobic, anti-Semitic, sexist, and cruel talk has become more commonplace in schools.”

Hate speech originates from an expressed idea that people of a certain race, religion, gender, sexual orientation, ethnic origin, or disability are inferior and should be denied respect or even the rights of American citizenship.

Educators need to respond to such hateful speech. However, many educators feel unsure of what to do. Educators, due to law and regulation, cannot passively ignore hateful speech that “creates an intimidating, threatening or abusive educational environment.”

Educators should never let speech devaluing, disrespecting, or misrepresenting “types of people” occur in schools without response. They should always model what it looks like to challenge, engage and question such speech.

Educators must question claims that hurt because they are inaccurate, and to press instead for the engagement of facts. Inaccurate claims about “types of people” distort other people’s families, cultures, histories, and neighborhoods or falsely deem some “groups” less valuable, skilled, or deserving of opportunity.

It is important to question inaccurate or under-informed claims and to invite evidence-based reasoning and ongoing learning about complex social issues in order to achieve a deeper understanding of history and contemporary lives.

The National Coalition Against Censorship (NCAC) believes that the question of restricting “hate speech” in schools is a thorny issue. “Schools must provide access to education on a non-discriminatory basis, prevent harassment that interferes with their educational mission, and socialize students to live and

work in a diverse community, and they must do all these things while recognizing that the right of free speech sometimes means the right to say things that are offensive to others.”

Title VI of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972 impose the responsibility on schools to ensure that educational opportunities are provided on a non-discriminatory basis. To rise to the level of discrimination, objectionable speech must create a “hostile environment.”

Further, “Under U.S. Supreme Court decisions, discrimination occurs only when harassment is so severe, persistent,

Educators should never let speech devaluing, disrespecting or misrepresenting “types of people” occur in schools without response. They should always model what it looks like to challenge, engage and question such speech.

and pervasive that it creates a hostile or abusive educational environment and adversely affects a student’s ability to benefit from an education program. Age and maturity of students is also relevant.”

Effects on School Climate

To understand how hate, intolerance, and bias are affecting school climate and impacting students and their educators, *Education Week* partnered with the nonprofit news organization ProPublica in a project called *Documenting Hate*. The Project analyzed three years of media reports and self-reported incidents of hate and bias in K-12 school settings. Investigators found that most school incidents targeted black, Latino, Jewish or Muslim students. Most incidents involved hate speech, both spoken and written.

One expert on school climate cautioned school leaders to avoid blaming acts of hate and bullying on President Trump’s influence. “There is usually never just one cause of bullying, so if we scapegoat it on the President, we are overlooking the broader climate issues that were there before and will likely continue if not directly addressed,” said Deborah Temkin, Director of Education research

for the nonpartisan Child Trends.

Schools have long been a venue for bias and harassment, where targeted students can feel threatened and unwelcome and where parents worry about their children’s physical safety. Administrators often falter in dealing with the ugliness, in both the immediate aftermath and over the longer-term, to confront deeper-seated hate and bias in their school communities.

K-12 leaders must first investigate and identify the motivation for the incidents, Temkin said, and then establish whether there are solutions such as anti-bias training and multicultural educa-

tion that could address the problem. “We know how adults respond to incidents affects the entire climate of the school, as in saying that these incidents are not okay and not the norm,” Temkin said. “However, there is some assumption on the part of the parents of what a school should do that may not align to what a school should or can do.”

Social Media

The pervasive use of social media to spread messages of hate can leave communities feeling pummeled. Many of the bias reports *Education Week* reviewed included the use of Instagram and Snapchat. Parents interviewed in various cities said they usually find out about hate-related incidents from their children or social media. In addition to students, teachers and school support staff have also been the source of bigoted statements.

The U.S. Supreme Court has consistently ruled that such speech enjoys First Amendment protection unless it is directed to causing imminent violence or involves true threats against individuals. The Supreme Court has said consistently that the First Amendment prohibits the government from targeting the content of speech unless it falls within an unprotected category such as incitement to violence, true threats, fighting words, and obscenity.

The government may not regulate speech based on the viewpoint expressed. The government cannot choose sides in the marketplace of ideas, permitting speech that is positive about a racial or religious group, for example, but banning speech that is critical or derogatory. “It is firmly settled that under our Constitution the public expression of ideas may not be prohibited merely because the ideas are themselves offensive to some of their hearers.”

Public schools must respect students’ rights to freedom of expression, guaranteed under the First Amendment. However, those rights aren’t absolute. There are some general exceptions to the First Amendment protections as well as the restrictions on student speech unique to the school setting.

Public schools have the responsibility to keep children safe, teach them



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HATEFUL SPEECH

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proper behavior, and provide a school environment conducive to learning. Schools must both respect students' rights to freedom of expression and protect children and the learning environment.

Supreme Court Decisions

Three major Supreme Court deci-

sions shape how public schools need to approach First Amendment issues: *Tinker v. Des Moines School District* (1969), *Bethel School District No. 403 v. Fraser* (1986), and *Hazelwood School District v. Kuhlmeier* (1988). *Tinker* indicated schools could legally limit student speech if the speech causes either a (1) material and substantial disruption or (2) collides with the rights of others.

School officials, however, may not

squelch the expression of unpopular decisions just to avoid "discomfort and unpleasantness". The banned speech would need to create a "substantial disruption" at school or would violate other students' rights. Social media and other online speech has made the issue of disruption more complicated.

The *Fraser* case permits schools to limit student speech that is lewd, vulgar, or counters the school's educational mission. The Court ruled that schools could discipline students for offensively lewd and indecent speech.

In *Hazelwood*, the Court established that school officials could exert editorial control in school-sponsored expressive activities, such as the student newspaper. School personnel controls school-sponsored expression that could reasonably be seen as bearing the stamp of approval of the school. These three cases provide the foundation for legal interpretations of First Amendment cases in schools.

Another U.S. Supreme Court ruling, in *Morse v. Frederick*, provided schools a fair amount of leeway in deciding whether students' speech poses a danger to classmate and teachers. This ruling indicated it was part of the school's mission to protect students from messages that could be viewed as promoting or celebrating illegal drug use.

Policy Implications

Many existing policies relate to this topic. They include, but are not limited to, the policies pertaining to student discipline/student conduct, bullying, hazing, terroristic acts/threats, cyberbullying, harassment, peer harassment, sexual harassment, in-school disturbances, nondiscrimination, freedom of expression, school climate and hate crimes and bias incidents in schools. In addition, a new policy, #0525, "Hate Speech in Schools," has been developed. All are available upon request.

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Relationships Matter!

Presenters:

Donald Harris, Board Chair, Bloomfield; President, CABA
dharris@blmfld.org

Robert Rader, Executive Director, CABA, rrader@cabe.org

Patrice McCarthy, Deputy Director and General Counsel, CABA, pmccarthy@cabe.org

As part of the January CABA webinar series, Executive Director Robert Rader, Deputy Director and General Counsel Patrice McCarthy, and CABA Past President and NSBA Northeast Representative Lydia Tedone (Simsbury) presented a webinar on *Relationships Matter* on January 14.

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Below are the highlights of activities that the CABE staff has undertaken on your behalf over the last month. We did this:

■ By providing opportunities for members to learn how to better govern their districts:

- Responded to 20 requests for policy information from 13 districts, providing sample materials on 15 topics. Further, districts continue to access CABE's online Core Policy Reference Manual and/or online manuals posted by CABE for policy samples. The topics of greatest interest continue to pertain to Title IX and use of social networking.
- Facilitated Marlborough Board's meeting on the superintendent search process.
- Facilitated CABE Board Chair Check-In and Update, featuring CAPSS President and Superintendent of the Year, **Dr. Paul Freeman**.

■ By helping school boards to increase student achievement:

- Sent three issues of "Policy Highlights" via e-mail listserv covering topics that affect student achievement. Included topics pertained to the preparation of agendas for board of education meetings, the role of the board chairperson, special education legislation, COVID-19 vaccinations for students, required vaccines for students, and Title IX.
- Attended meeting of SDE's Ed Rising Advisory Committee.
- Participated in Special Education Leaders Steering Committee meeting.

- Participated in International Education Committee meeting.

- Participated in NSBA State Association Counsel meetings.

■ By representing Connecticut school boards on the state or national level:

- Attended CAPSS Board of Directors virtual meeting.
- Participated in NSBA Strategic Workshops, helping NSBA build a strategic plan for the future.
- Appeared on Peter Mezzitti Valley Shore Community Television program.
- Attended Governor Lamont's telephone calls with municipal officials.
- Attended SDE/DPH webinars on the COVID-19 situation in Connecticut.
- Attended Commissioner Cardona's Partners (CABE, CAPSS, CAS, CEA and AFT-CT) calls.
- Participated in discussion with Education Week reporter Stephen Sawchuck.
- Attended Board meeting of the Connecticut Regional Anti-Defamation League.
- Participated in Juvenile Justice Discussion Work Group meeting.
- Participated in Restorative Practices Work Group meeting.
- Participated in Social and Emotional Learning Collaborative meeting.
- Discussed upcoming legislative session at Western, University, and Southern Connecticut Area Superintendents meetings.

■ By providing services to meet member needs:

- Posted policies online for districts utilizing the Connecticut Online Policy Service (COPS) for Bolton, Canton, Chaplin, Cheshire, Derby, Griswold, Granby, Monroe, Orange, Region #4, Ridgefield, Sherman, Somers, Voluntown, Westport, and Woodbridge.
- Revised policies for East Hampton, New Fairfield, and Sterling as part of the Custom Update Service.
- Participated in a virtual meeting with the Brookfield Policy Committee.

■ By ensuring members receive the most up-to-date communications:

- Prepared materials, as part of the Custom Policy Service, for Ansonia, Danbury and Region #15.
- Revised policies in the master resource file of policies and in the online Core Manual.

■ By attending Professional Development to strengthen staff knowledge and skills:

- Attended a legal issues webinar.Com

- Attended NSBA Executive Directors' professional development workshop on "Leadership in the Time of Now".
- Conducted virtual lobbying meetings with legislative leaders.

■ By promoting public education:

- Hosted bi-weekly Board Chair teleconferences.
- Discussed education delivery in the pandemic on WTIC-AM.

SAVE THE DATE!

**CREC/HASA/CABE
VIRTUAL LEGISLATIVE
FORUM**

**Thursday,
February 11, 2021
8:30-9:30 a.m.**

Legislative priorities and educational issues for the 2021 Session of the Connecticut General Assembly will be discussed with CGA Legislators.

Questions? Contact Debra Borrero, Director of Public Policy & Strategic Planning at dborrero@crec.org

MEETINGS OF INTEREST

FEBRUARY 3 – Meeting of the CT State Board of Education

Virtual meetings will be live-streamed for public access. A link to the live stream will be available on the Board's Website the morning of the meeting at 9:30 a.m.

FEBRUARY 10 – NSBA Equity Online Symposium

Register for this complimentary symposium by going to https://zoom.us/join/wn_sjgQ915fRUany80snpp6w

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At the same time, our attorneys are counseling clients on new laws affecting school districts, including the Title IX regulations effective in August 2020, transgender athlete policies and the sexual harassment training obligations mandated by October 2020.

Our attorneys are accessible to their clients, responsive to concerns and always available to answer questions on these issues as well as on the challenges schools face on a routine basis in their daily operations.

Please visit our *Education Law Notes* blog for up-to-the-minute alerts, commentary and insights on critical legal issues affecting educational institutions.

[Schoollaw.pullcomblog.com](https://www.pullcom.com/school-law-notes)

And, for critical information on the legal implications as a result of the COVID-19 pandemic, please visit our COVID-19 Focus page at [pullcom.com](https://www.pullcom.com/covid-19-focus) to view recent publications, receive alerts, and to register for and view our webinar series related to the pandemic.

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