

MARTIN J. BLACK

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January 3, 2019

HAND DELIVER

Prothonotary, Schuylkill County
401 N. 2nd St.
Pottsville, PA 17901

Dear Sir or Madam:

Enclosed for filing please find:

1. Civil Cover Sheet
2. Complaint (Koscak et al. v. Tamaqua Area School District
3. Notice
4. Certificate of Compliance
5. Verification of Holly Koscak
6. Verification of Sara J. Thierer
7. Check for \$127 payable to the Prothonotary

Thank you.

Very truly yours,



Martin J. Black

MJB:ldl

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

Schuykill

County

For Prothonotary Use Only:

Docket No:

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

Holly Koscak

Lead Defendant's Name:

Tamaqua Area School District

Are money damages requested? ☐ Yes ☒ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☒ outside arbitration limits

Is this a *Class Action Suit*? ☐ Yes ☒ No

Is this an *MDJ Appeal*? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: Martin Black, Dechert LLP, 2929 Arch Street, Philadelphia, PA 19104

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the **ONE** case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other

☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other

☐ Other:

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other

- ☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☒ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations
☐ Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

NOTICE

Pennsylvania Rule of Civil Procedure 205.5. (Cover Sheet) provides, in part:

Rule 205.5. Cover Sheet

(a)(1) This rule shall apply to all actions governed by the rules of civil procedure except the following:

- (i) actions pursuant to the Protection from Abuse Act, Rules 1901 et seq.
- (ii) actions for support, Rules 1910.1 et seq.
- (iii) actions for custody, partial custody and visitation of minor children, Rules 1915.1 et seq.
- (iv) actions for divorce or annulment of marriage, Rules 1920.1 et seq.
- (v) actions in domestic relations generally, including paternity actions, Rules 1930.1 et seq.
- (vi) voluntary mediation in custody actions, Rules 1940.1 et seq.

(2) At the commencement of any action, the party initiating the action shall complete the cover sheet set forth in subdivision (e) and file it with the prothonotary.

(b) The prothonotary shall not accept a filing commencing an action without a completed cover sheet.

(c) The prothonotary shall assist a party appearing pro se in the completion of the form.

(d) A judicial district which has implemented an electronic filing system pursuant to Rule 205.4 and has promulgated those procedures pursuant to Rule 239.9 shall be exempt from the provisions of this rule.

(e) The Court Administrator of Pennsylvania, in conjunction with the Civil Procedural Rules Committee, shall design and publish the cover sheet. The latest version of the form shall be published on the website of the Administrative Office of Pennsylvania Courts at www.pacourts.us.

**IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

HOLLY KOSCAK, individually and as a
parent of Tamaqua Area School District
student J.K.

Case No. _____

DARRELL L. FLACK, JR. individually and
as a parent of Tamaqua Area School District
students L.A.H, K.H. and D.F.,

ANGELA M. FLACK, individually and as a
parent of Tamaqua Area School District
student D.F.,

SARA J. THIERER

Plaintiffs,

v.

TAMAQUA AREA SCHOOL DISTRICT

Defendant.

COMPLAINT

The children of Tamaqua, by, through and with their families, bring this action to ensure that their schools will remain a safe place to learn and grow. The board members of the Tamaqua Area School District have exceeded their authority and endangered their community by enacting School District Policy 705, a manifestly illegal policy that authorizes guns in the classrooms and lethal force in the halls. In so doing, the board has appropriated a power that the General Assembly has guarded jealously for itself – the right to regulate the use of firearms. If this Court does not act to enforce the will of the General Assembly, the result will be to create a patchwork of firearms laws around the Commonwealth, with each school district making its own determinations as to the means and use of lethal force in schools. School district boards are

neither equipped, nor authorized, to make such momentous decisions. The Tamaqua Area School District is a creature of limited powers, and the enactment of Policy 705 and appropriation of funds in support of it exceeded those powers. Policy 705 should be declared void and of no further force and effect.

The Parties

1. The plaintiffs are residents of the Tamaqua Area School District (the “District”), who have children or grandchildren in District schools and who have and will enter school grounds to pick up, drop off or watch family members participate in sports, drama and other school activities. They bring this action on behalf of themselves, individually, and on behalf of their minor children.

2. Plaintiff Holly Koscak is a 48-year resident of the Borough of Tamaqua (“Tamaqua”). She is the mother of minor child J.K., who presently attends Tamaqua Area High School. Ms. Koscak is a responsible and registered owner of firearms, who wishes to ensure that the educators entrusted with the care of her children are not carrying weapons that will endanger the safety of her children.

3. Plaintiffs Darrell L. Flack, Jr. and Angela M. Flack are residents of Tamaqua. Mrs. Flack has three children in District schools: L.A.H. in the Tamaqua Area Middle School, K.H. in the Tamaqua Elementary School and D.F., who is in kindergarten and is also the child of Darrell Flack. Mr. and Mrs. Flack are also the parents of a three-year old, who will enter the school system in the near future. They believe that a teacher’s job is to teach and not to carry weapons in the classroom and are concerned about the safety of their children under Policy 705.

4. Plaintiff Sara J. Theirer is a long-time resident of the Tamaqua, who has raised both children and grandchildren in the District. She currently has three grandchildren in District

schools, including S.E., who is a student at Tamaqua Area High School, A.E, who is a student of the Tamaqua Area Middle School, and M.T., who is a student at the West Penn Elementary School. Ms. Thierer is a proud Tamaqua grandparent, who enjoys participating in the life of the school. She has attended basketball practices, plays and other school events and drives her grandchildren to school when needed. She is concerned about the way in which Policy 705 was passed and does not believe that the District has an adequate plan in place for training employees to carry firearms. She fears for the safety of students and visitors, like herself, who might be on school grounds during an incident. She believes that private citizens, like schoolteachers, should focus on teaching and are not qualified to deal with the enormous responsibility of confronting an active shooter.

5. Defendant Tamaqua Area School District is a school district of the second class and a political subdivision of the Commonwealth of Pennsylvania. The District operates four school buildings in which it educates over 2,000 students. The District's business office is located at 318 West Broad Street, Tamaqua, Pennsylvania 18252. The District is governed by a nine-member Board.

Jurisdiction and Venue

6. This Court has original jurisdiction over this action for declaratory and equitable relief pursuant to Sections 931(a) and 7532 of the Pennsylvania Judicial Code, 42 Pa. C.S. §§ 931(a), 7532.

7. Venue is proper in this judicial district because the District is a political subdivision located within the territorial limits of Schuylkill County. Pa. R.C.P. § 2103(b).

Factual Background
The Secret Passage of Policy 705

8. School Board Policy 705 is entitled “Standard Operating Procedures for Persons Authorized to Use Weapons” (“Policy 705” or the “Policy”). A true and correct copy of Policy 705 is attached as Exhibit A. Sometime prior to July 2018, the Board began private discussions regarding the modification of Policy 705, with the goal of authorizing teachers and other school employees to carry concealed firearms on school premises.

9. The Board hoped to make the District the first school district in the Commonwealth with armed teachers. Fully aware that introducing guns into classrooms would be extremely controversial, the Board took active steps to conceal its plan from the public.

10. At its meeting of June 12, 2018, the Board discussed multiple alternatives for increasing security at District schools, including hiring security guards and local police, as many other school districts have done around the state, as well as arming certain staff members. The Board promised to do careful due diligence before taking any action.

11. That due diligence was not to be. Instead, by July 2018, members of the Board had drafted a revised Policy 705, purporting to authorize classroom teachers and other school employees to carry weapons and use lethal force. The drafting was done in secret and without public input. The Board gave no prior notice to the public of the change or that they planned to vote on the Policy at the next meeting.

12. The Board minutes for the July 17, 2018, meeting reflect that the Board held no hearings that day. They did, however, pass the most radical change to school security policy in the history of the Commonwealth. As the minutes reflect, the Board pushed the changes through without a public reading:

Security Committee – Boyle presented the following item as a recommendation of the Security Committee.

Boyle made a motion seconded by Rother to approve the following: Schoener made a motion seconded by Miller to forgo the reading of the following policy. Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR." First reading of the following policy: Policy #705 Standard Operating Procedures for Persons Authorized to Use Weapons Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Tamaqua School Board Meeting Minutes, July 17, 2018. True and correct copies of the Tamaqua School Board Meeting Minutes for July 17, 2018, August 21, 2018 and September 18, 2018 are attached hereto as Exhibit B.

13. The Board held its next meeting on August 21, 2018. No hearings were held that day either. Instead, the Board voted a second time to approve the Policy without a public reading:

Security Committee – Boyle presented the following item as recommendations of the Security Committee.

Boyle made a motion seconded by Rother to approve the following: Schoener made a motion seconded by Meiser to forgo the second reading of the following Policy: Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." First reading of the following policy: Policy #705 Standard Operating Procedures for Persons Authorized to Use Weapons (revised) Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." (Exhibit B).

14. The Board repeated the exercise for a third time at the September 18, 2018, meeting. Once again, the Board held no hearings, but voted unanimously to forgo a reading and simply passed the bill. As the minutes reflect:

Security Committee – Boyle presented the following item as recommendation of the Security Committee. Boyle made a motion seconded by Rother to approve the following. Schoener made a motion seconded by Meiser to forgo the reading: Second reading of the following policy: Policy #705 Standard Operating Procedures for Persons Authorized to Use Weapons (revised) Adoption of Policy #705 Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." (Exhibit B).

15. Because there was no public discussion of Policy 705, and even the scant information provided in the minutes was published months later, the public had no idea of the

extraordinary change the Board had wrought. Indeed, the Board had not even informed the teachers before voting.

16. Having passed Policy 705, the Board then needed to fund it, and that led to the discovery of their plan. At a working session on October 9, 2018, the Board's Safety Committee recommended that the District pay school resource officers \$2,000 a year and provide each with a life insurance policy with a death benefit of \$250,000. Board President Larry Wittig disclosed that the Board planned to arm teachers under the plan. He said "We could have one teacher or we could have a hundred. We won't know until we put it out there." See Cwalina, *Tamaqua School District Mulls Armed Staff*, www.tnoline.com/tamaqua-school-district-mulls-armed-staff (October 10, 2018).

17. By November the word was out, and a firestorm of protest erupted in the District. Concerned parents and teachers – many of them responsible and supportive gun owners – were incredulous that the District planned to allow teachers to carry concealed weapons in classrooms and that the Board had passed the Policy without public debate. When pressed, Wittig claimed: "The training that will be administered to any volunteer, they will be better equipped than the average police academy grad." See Rultenberg, *Tamaqua School District Considers Arming Teachers*, www.wfmz.com/news/poconos-coal/tamaqua-school-district-considers-arming-teachers/838430719 (November 1, 2018). In fact, Policy 705 provided for no such training.

18. On November 7, 2018, the Board held an open meeting, and over 100 concerned parents, students, and teachers packed the Tamaqua Area Middle School cafeteria to discuss the already-passed Policy. Students, parents, and teachers expressed their frustration with the Policy and the way it had been enacted. Members of the public presented extensive research and alternatives. Wittig said: "We will look into everything people presented — I can promise you

that.” See, Wojcik, *Tamaqua Policy to Arm School Staff Comes Under Fire*, The Moring Call (November 7, 2018), www.mcall.com/news/education/mc-nws-tamaqua-teachers-with-guns-meeting-20181105-story.html.

19. But the Board had no more interest in hearing from the community after passage of Policy 705 than it had before passing the amendments. All efforts to get the Board to delay or rescind the Policy have failed. Indeed, the Board has refused to answer questions from the public about whether school employees are already carrying firearms.

20. Policy 705, as amended, contains the following provisions pertaining to the carrying of firearms and delegation of police power to teachers and other school employees:

(a) The first section is titled “Authority”, but it cites no statutory authority. Instead, Policy 705 creates a class of “School Resource Professionals” (“SRPs”), who are authorized “to possess particular weaponry on their person while exercising their duties.” SRPs are defined to include “administrators, teachers, or other employees” of the District. Policy at 1.

(b) The SRPs must undergo a vague “initial training session” on “the use of firearms and other district issued equipment.” There is no further detail on the content of the initial training. SRPs also receive ACT 235 training (22 P.S. § 41-50.1). Policy at 1. There is no requirement that SRPs receive training under the Municipal Police Education and Training Law, 53, Pa. C.S. §§ 2161-2171.

(c) SRPs must undergo “firearms qualification”, but there is no description of what is required to qualify. An SRP may fail the test the first time and take it a second time in the same day. Policy at 2.

(d) SRPs are required to notify their superiors “of any physical, emotional/mental or pharmacological conditions affecting his/her causing physical and/or mental impairment.” Policy at 7-8. There is no provision in the Policy for the independent assessment of an SRP’s fitness to carry firearms on school property or respond to an incident.

(e) The Policy authorizes SRPs to wear their weapons during normally assigned duties, which would include ordinary teaching duties. Policy at 2. Under the Policy, teachers will wear their weapons while at the blackboard or lecturing the class. There is no requirement that firearms be concealed, and nothing to prevent an SRP from keeping a firearm on or in a nearby desk.

(f) The Policy expressly authorizes SRPs to use deadly force, which is defined as “that force which is intended to cause death or seriously bodily injury or which creates some specified degree of risk that reasonable and prudent person would consider likely to cause death or serious bodily injury.” Policy at 3, ¶ 1.

(g) When using deadly force, SRPs are instructed to: (1) “shoot at the center of available body mass presented by the threat”, (2) “shoot at an alternative target, such as the head or pelvic area when circumstances render that ineffective” or (3) “[s]hoot at the head when the school resource professional has a reasonable belief that the suspect is in possession of a firearm, a bomb or other explosive device with the intent to carry out a suicide/homicide bombing.” Policy at 3-4, ¶ 3.

(h) The express authority to shoot to kill extends to juveniles: “No distinction need be made relative to the age of the intended target of deadly force”. Policy at 4, ¶ 5.

- (i) Verbal warnings are optional, and warning shots are not only discouraged, but prohibited. Policy at 4, ¶¶ 6, 8.
- (j) There are convoluted and impossible to follow instructions on what to do when bystanders are present. Policy at 4, ¶ 7.
- (k) SRPs are authorized to detain individuals until the arrival of the conventional police. Policy at 4, ¶ 9.
- (l) The Policy explicitly authorizes the discharge of firearms and provides a five-factor balancing test to determine whether the SRP has used “reasonable force”, including a catch-all factor of “[a]ny other exigent circumstances.” Policy at 4.
- (m) The Policy provides instructions on the escalating use of force, including how to employ police techniques, such as handcuffing, physical control, takedowns and striking the subject. Policy at 5.
- (n) SRPs are authorized to conduct searches if there is an immediate threat to life, and to detain individuals to assist administration officials or while awaiting the arrival of conventional police. Policy at 8.
- (o) SRPs are authorized to carry and use handcuffs to restrain and control persons who “constitute a threat to the School Resource Professional or other persons who may be present on school premises at the time of said arrest.” Policy at 8. They are also authorized to carry and use pepper spray “to subdue extremely disorderly and/or unruly persons” Policy at 9.

The Legal Framework
Education Law in the Commonwealth

21. The Pennsylvania Constitution vests the authority over public schools in the General Assembly:

§ 14. Public school system.

The General Assembly shall provide for the maintenance and support of a thorough and efficient system of public education to serve the needs of the Commonwealth.

Pa. Const. Art. II, B., § 14.

22. School districts, on the other hand, are bodies of limited authority. As the Pennsylvania Supreme Court stated 60 years ago:

It is clear, we repeat, that a public school or a public school district is not a constitutional body. . . . A School District is a creature or agency of the Legislature and has only the powers that are granted by statute, specifically or by necessary implication. *Barth v. School District of Philadelphia*, 393 Pa. 557, 562, 143 A.2d 909, 911 (1958).

23. There is no statute that specifically grants school districts of the second class the authority to arm teachers and other school employees, to regulate the use lethal force on school property, to grant police powers to school employees, or to disburse funds to further these purposes.

24. There is no statute that by necessary implication grants districts of the second class the authority to arm teachers and other school employees, to regulate the use lethal force on school property, to grant police powers to school employees, or to disburse funds to further these purposes.

Police and Firearms Regulation

25. The General Assembly has guarded jealously its power to regulate the use of firearms in the Commonwealth, and there is no statute delegating that authority to school districts of the second class like the District.

26. Pursuant to 21 Pa. C.S. 6120(a): “No county, municipality or township may in any manner regulate the lawful ownership, possession, transfer or transportation of firearms, ammunition or ammunition components when carried or transported for purposes not prohibited by the laws of this Commonwealth.” The statute explicitly defines “political subdivisions” to include school districts. 21 Pa. C.S. § 6120(b).

27. School districts of the second class, like the District, are bound by the prohibition in Section 6120 not to, *in any manner*, regulate the possession of firearms and are powerless to either authorize or restrict the use of firearms on school property. That power is reserved to the General Assembly.

28. The General Assembly has regulated many aspects of the use of firearms, making it a felony of the third degree to discharge a firearm “from any location into an occupied structure.” 18 Pa. C.S. § 2707.1. A “law enforcement officer engaged in the performance of his official law enforcement duties” is exempted from the scope of the offense. 18 Pa. C.S. § 2707.1(c). There is no exemption for teachers or school personnel, and the District lacks the power to authorize the discharge of firearms on school grounds.

29. The General Assembly has prohibited even the possession of firearms on school property pursuant to 18 Pa. C.S. § 912(c), making possession of a gun on the premises of a school in the District a criminal offense. The General Assembly exempted those possessing a weapon for use in conjunction with a supervised school activity, like a target shooting program,

or where the firearm “is possessed for other lawful purpose.” The law did not delegate to school districts of the second class the right to name their own lawful purposes.

30. Police officers acting in the course of their duties have the authority to carry and discharge their weapons; however, that power is granted to them only after the completion of comprehensive firearms training pursuant to the Municipal Police Education and Training Law, 53 Pa. C.S. §§ 2161-2171, 2167(a).

The School Code

31. At the same time that the District was secretly considering making changes to Policy 705, the General Assembly was debating how to provide enhanced school security. As part of those deliberations, the Senate introduced S.B. 383, Reg. Sess. 2017-2018, which would have granted school districts the right to authorize employees to carry firearms. The bill would have required professional psychological evaluation of such employees, specific training and the creation of a firearm safety plan in conjunction with local police. S.B. 383 was defeated and did not become law.

32. On June 22, 2018, the General Assembly passed comprehensive legislation on the subject of school security in Article XIII-C of the School Code. 24 P.S. § 13-1301-C, et seq. Pursuant to the School Code, school police officers may be appointed by a judge of the court of common pleas of the county in which the school entity is located. 24 P.S. § 13-1302-C. There is no provision granting school boards the authority to arm teachers and school employees.

33. The powers of school police officers are subject to court (not school board) approval. 24 P.S. § 13-1302-C(b)(2). The prescribed procedure for obtaining court approval is mandatory, and the statute does not permit school districts, by vote of the school board, to vest employees with the police power to carry firearms or to arrest or detain students.

34. Pursuant to 24 P.S. § 13-1305-C, entitled “Firearm training”, any school police officer granted powers under Section 13-1302C or who has been authorized to carry a firearm must complete the training prescribed by the Municipal Police Education and Training Act or have graduated from the Pennsylvania State Police Academy or been employed as a State Trooper. 24 P.S. § 13-1305-C.

35. The School Code delineates the duties of school police officers and requires that they wear a badge with the words “School Police” when performing their duties. 24 P.S. §§ 13-1306-C, 13-1307-C.

36. School districts also have the option of employing independent contractors who are retired Federal agents or retired police officers or sheriffs. These individuals must also complete the annual firearms training required by the Municipal Police Officers’ Education and Training Commission. 24 P.S. § 13-1311-C.

37. The School Code also states that “nothing in this article shall be construed to preclude a school entity or nonpublic school from employing other security personnel as the school or entity or nonpublic school deems necessary.” 24 P.S. § 13-1312-C. This provision does not authorize the arming of teachers, let alone override the requirements of the aforementioned specific provisions relating to firearms use and training.

38. The School Code also authorizes school entities to appoint school resource officers and school security guards, neither of whose duties include the right to possess firearms on school property. Nor are such individuals authorized to make arrests, detain school children, carry firearms or use lethal force. 24 P.S. §§ 13-1313-C, 13-1314-C.

Count I

Declaratory Judgment of Unenforceability

39. Paragraphs 1 through 38 are incorporated herein by reference.

40. As a school district of the second class, the authority of the District is limited, and it may only exercise powers “that are granted by statute, specifically or by necessary implication.” *Barth*, 393 Pa. at 562, 143 A.2d at 911.

41. The School Code, Article XIII-C, is entitled “School Police Officers and Resource Officers”. 24 P.S. § 13-1301-C, et seq. Article XIII-C provides a comprehensive framework governing the employment of police and resource officers at schools.

42. Policy 705 creates an unauthorized class of employees, called “School Resource Professionals”, with the authority of a police officer to carry and discharge firearms, to use lethal force, to detain people and otherwise exercise the police power, but who are not subject to the mandatory court approval process required by 24 P.S. § 13-1302-C.

43. There is no statute that authorizes, specifically or by necessary implication, the creation of the “School Resource Professionals” described in Policy 705.

44. It is unlawful for the District to employ individuals carrying firearms who have not completed the training required by the Municipal Police Education and Training Law, 53 Pa. C.S. §§ 2161-2171.

45. It is unlawful for the District to authorize the use of lethal force.

46. It is unlawful for the District to authorize its employees to commit violations of the criminal law by carrying firearms on school property and discharging their weapons into school buildings as prohibited by 18 Pa. C.S. §§ 912(c) and 2707.1.

47. The District is barred by 18 Pa. C.S. § 6120 from making regulations relating to the use of firearms, a power which is reserved to the General Assembly. Policy 705 improperly purports to regulate the use of firearms in numerous respects, both authorizing and placing limits on, the conditions for possession and use of firearms on school grounds.

48. The District may only expend funds strictly as authorized by the law, and there is no legislation permitting the District to expend funds in the form of payments to teachers to carry firearms, the purchase of life insurance, or for firearms training.

49. Policy 705 exceeds the powers granted by the General Assembly to the District under the School Code and 18 Pa. C.S. § 6120, and is, therefore, void and of no force and effect.

50. Because Policy 705 violates the law and is contrary to the will of the General Assembly, and Plaintiffs have no adequate remedy at law, the District should be enjoined from taking any action under Policy 705 and from authorizing any persons to carry firearms on school premises.

Prayer For Relief

WHEREFORE, Plaintiffs request this Court to grant the following relief:

- (a) a declaration that Policy 705 is void and of no further force and effect;
- (b) a declaration that Policy 705 and any other policies that authorize or otherwise permit teachers or other personnel employed by the District to carry firearms without having completed the training required by the Municipal Police Education and Training Law, 53 Pa. C.S. §§ 2161-2171, are void and of no further force and effect.
- (c) preliminary and permanent injunctive relief against the implementation of Policy 705 and the authorization of school personnel to carry firearms on school property;
- (d) an award of Plaintiffs' costs and expenses; and
- (e) all other appropriate relief.

Dated: January 3, 2019

A handwritten signature in blue ink, reading "Martin J. Black". The signature is written in a cursive style and is positioned above a horizontal line.

Martin J. Black (PA I.D. No. 54319)
Benjamin McAnaney (PA I.D. NO. 313054)
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Attorneys for Plaintiffs



Attachment A

Book	Policy Manual
Section	700 Property
Title	Standard Operating Procedures for Persons Authorized to Use Weapons
Number	705
Status	Active
Adopted	October 17, 2006
Last Revised	September 18, 2018

Authority

In order to preserve a safe school environment for students and staff, School Resource Professionals or SRP's defined as administrators, teachers, or other employees of the Tamaqua Area School District who are approved by the Board of Directors of the Tamaqua Area School District and have successfully completed all training and acquired all qualifications necessary to carry firearms on school district property, including all required annual qualifications. Therefore, the following rules and regulations shall be in effect for those individuals who are authorized and approved to carry weapons and govern activities of School Resource Professionals when they are acting in that capacity on school district property.

The Tamaqua Area Board authorizes School Resource Professionals or those who are properly certified in accordance with the laws of the Commonwealth of Pennsylvania and are approved by the Board to possess particular weaponry on their person while exercising their duties.

Delegation of Responsibility

The Tamaqua Area Superintendent shall assume the responsibility for ensuring compliance with the laws of the Commonwealth of Pennsylvania and this policy, related policies and established guidelines or administrative regulations.

Guidelines

Training and Qualifications for School Resource Professionals

An initial training session will be conducted for use of firearms and other district issued equipment. The purpose of this session will be to completely familiarize and qualify the School Resource Professional with the weapons/instruments and the policy and procedure surrounding its use.

The initial training and familiarization session will be conducted by a certified firearms instructor or instructors from local law enforcement agencies. Annual qualification must occur to meet guidelines to carry a firearm on school district property.

A School Resource Professional shall receive ACT 235 training for the use of ANY weapon and any other district issued equipment s/he is required or authorized to carry in the line of duty. During the school day, the School Resource Professional or designated personnel shall only carry weapons that the Tamaqua Area School District has trained and authorized him/her to use.

Firearms Qualification

A School Resource Professional must qualify with his/her assigned firearms on an annual basis utilizing an approved course. Firearms training should include comprehensive instruction of:

1. Department policy on the use of deadly force.
2. Legal requirements.
3. Firearm safety.
4. Firearm proficiency to include malfunction clearance procedures.

All aspects of firearms training will include the School Resource Professional's on-duty weapon. Should a School Resource Professional fail to meet qualification standards, the authority to carry the weapon shall immediately be revoked by the Tamaqua Area School District until such time as standards are met.

School Resource Professionals may fire to qualify twice within the same day if needed. School Resource Professionals who qualify on the first attempt shall not fire the course a second time. School Resource Professionals who do not qualify on the first attempt shall be given every opportunity by the Firearm Instructor to immediately complete a second attempt. School Resource Professionals personnel who fail to qualify on the second attempt will be required to complete a four-hour training with the Firearm Instructor within two (2) weeks of not qualifying. The School Resource Professional may then attempt to re-qualify within two (2) weeks of completing the four-hour training.

Firearm Certification Records

The district shall maintain a permanent Certification Log for every School Resource Professional authorized to carry firearms. The Log shall contain as a minimum:

1. School Resource Professional's name.
2. Date/time/Location of Qualification.
3. Certified on-duty weapon's make, model, caliber, and the ammunition used for on-duty use.
4. Firearm instructor's name.

Use of Firearms

Weapons shall be worn and used only while the School Resource Professional is performing his/her normally assigned duties. District-assigned weapons shall not be worn while the School Resource Professional or designated personnel are off duty or while traveling out of the Commonwealth of Pennsylvania, except for the following circumstances:

1. To and from off-site locations to conduct official school business or proficiency training approved by the building administrator or the Superintendent.
2. To and from intra-school district locations and interschool district locations in order to conduct official school business.
3. With the express written permission of the Superintendent or his/her designee.
4. School Resource Professionals shall have those firearms under their control at all times. Loading and unloading of firearms should be accomplished at a clearing barrel with the muzzle of the firearm pointed into the clearing barrel in a manner prescribed by the manufacturer. Handguns shall be carried in the issued holster and shall only be removed from the holster under circumstances indicating that justifiable use of deadly force may become necessary or when preparing to maintain/clean or store the handgun. Un-holstering the handgun for the purpose of maintenance or cleaning should be done at a clearing barrel. If no clearing barrel is available the

firearm should be pointed in a safe direction or toward an object or building structure that would reasonably be expected to stop a bullet should the firearm be negligently unintentionally discharged.

Storage –

District issued firearms will be stored on school premises at the conclusion of each school day. Any such firearm shall be stored in a locked gun safe, which shall be provided by the school district. Said safe shall be capable of safely storing the weapons in a manner so as not to jeopardize the safety and welfare of unauthorized persons. Access to the school safe shall be limited to the School Resource Professional's, the Superintendent, the Curriculum Coordinator, the building principal, and assistant principal where the safe is located. Administrators without proper certification are prohibited from handling weapons on school property.

Maintenance of Firearms –

School Resource Professionals are responsible to clean and lubricate firearms issued to them after each use or whenever the firearm has been subjected to moisture or dirt. Firearms with mechanical problems that cannot be corrected by routine cleaning must be taken out of service and sent to a qualified armorer for repair. School Resource Professionals shall not make any modifications or changes to their official duty weapon.

Deadly Force –

The decision to use deadly force is one of the most serious decisions a School Resource Professional shall ever make. Because of the far-reaching consequences of the use of deadly force, School Resource Professionals shall be thoroughly familiar with the rules governing its use and consider beforehand the types of situations in which it may be required.

School Resource Professionals may use deadly force only when authorized in accordance with the laws of the Commonwealth of Pennsylvania governing the use of such force. These procedures are designed to serve as a straight-forward definition of the circumstances under which deadly force is appropriate so School Resource Professionals or designated personnel shall be able to act swiftly, decisively, and correctly. School Resource Professionals or designated personnel need not wait until injury occurs to themselves or others before taking appropriate action to prevent it.

Use of Force Definitions –

1. **Deadly Force:** As used in these procedures, "Deadly Force" is defined as that force which is intended to cause death or serious bodily injury or which creates some specified degree of risk that a reasonable and prudent person would consider likely to cause death or serious bodily injury.
2. **Serious Bodily Injury:** Serious Bodily Injury is defined as bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss or impairment of function of any bodily member or organ.
3. **Shoot to Stop:** School Resource Professionals or designated personnel shall not shoot to kill or shoot to wound unless absolutely necessary to eliminate the threatening action, but s/he shall shoot only to stop the action by causing the instant incapacitation of the threat. For maximum stopping and effectiveness and to minimize the danger to innocent bystanders, members and enforcement officers should School Resource Professionals shall:
 - a. Shoot at the center of available body mass presented by the threat.
 - b. Shoot at an alternative target, such as the head or pelvic area, when circumstances (i.e., body armor, drugs, adrenaline) render the center mass of torso target ineffective at immediately stopping the threatened action.

- c. Shoot at the head, when the School Resource Professional has a reasonable belief that the suspect is in possession of a firearm, a bomb, or other explosive devices with the intent to carry out a suicide/homicide bombing, in order to facilitate the instant incapacitation of the suspect while minimizing the potential for striking the bomb/explosive device.
4. **Defense of Life:** A School Resource Professional may use deadly force to protect his/herself or others from what s/he reasonably believes to be an immediate threat of death or serious bodily injury.
5. **Juveniles:** No distinction need be made relative to the age of the intended target of deadly force. Self-defense and imminent threat of death or serious bodily injury to the School Resource Professional or others are the only policy guidelines for employing deadly force.
6. **Warning Shots:** A School Resource Professional shall NOT utilize his/her weapon to fire a "warning shot."
7. **Risk to Innocent Bystanders:** School Resource Professionals facing the decision to use deadly force must be cognizant of any innocent third parties that may be present in or near the line of fire. School Resource Professionals are prohibited from discharging firearms when it appears reasonably likely an innocent person may be injured unless failure to use deadly force would likely result in the immediate death or serious bodily injury of the School Resource Professional or another person.
8. **Verbal Warning:** If feasibly possible, given all circumstances, a School Resource Professional should give a verbal command before using or attempting to use deadly force.
9. **Holding Area:** In the event that an individual needs to be detained until police arrive, individuals, School Resource Professionals may detain individuals in the principal's office and the individual should be kept under direct observation at all times. There is no official holding cell on school district property. Also, an individual may not be interrogated by School Resource Professionals.
10. **Vehicular Pursuit:** A School Resource Professional will not engage in a vehicular pursuit.

Discharging of Firearm –

Firearms may be discharged only during times when the life of the officer or life of another is threatened or in jeopardy of serious bodily injury or death.

Use of Force Consideration –

When determining whether or not to apply a use of force and evaluating whether a School Resource Professional has used reasonable force, a number of factors should be taken into consideration, including, but not limited to:

1. The immediate threat to safety.
2. Potential for injury to a School Resource Professional or others.
3. A School Resource Professional's ability to disengage.
4. The circumstances existing at the moment force is used.
5. Any other exigent circumstances.
6. The School Resource Professional, the Building Administrator, the Superintendent and/or designee shall notify Tamaqua Borough, Walker Township, or West Penn Township police of any threat or crime threatened or committed.

Use of Force Continuum

The use of force continuum is a logical progression of force that, whenever possible, should be progressive in nature.

1. When the use of force is reasonable and necessary, SRPs should, to the extent possible, use an escalating scale of options and not employ more forceful means unless it is determined that a lower level of force would not be, or has not been, adequate.
 - a. It is not the intent of this policy to require SRPs or designated personnel to try each of the options before moving to the next, as long as the level of force used is reasonable under the circumstances. The circumstance presented to a reasonably objective School Resource Professional will dictate the most appropriate response to a situation.

Levels of Resistance/Behavior (Subject's Actions)

1. **Psychological Intimidation:** The non-verbal cues indicating a subject's unwillingness to comply with control through apparent resistive attitude, appearance, and physical readiness to resist.
2. **Verbal Non-Compliance:** Verbal cues indicating a subject's unwillingness to comply with control through resistive statements, threatening statements, or other "fighting words."
3. **Passive Resistance:** Is a civil disobedience technique where a subject offers resistance in the form of non-compliance or inaction that hinders or prevents an SRP's attempt at control.
4. **Defensive Resistance:** Includes actions that attempt to prevent an officer from taking control of an actor, such as evasive actions, tensing of muscles, pulling away, bracing, grasping an object, etc. The actor's action never rises to the level of being assaultive towards the SRP, but he nevertheless is resistive, sometimes requiring substantial force to overcome. For the purpose of this policy, **defensive resistant behavior includes** "active resistance" behavior and the difference is more a matter of terminology than actions.
5. **Active Aggression:** Assaultive behavior by the subject with personal or other weapons not perceived to be lethal. It includes the verbal threats of imminent assault or associated body language consistent with the substantial step towards that assault.
6. **Lethal Force:** Involves actions where the actor is assaulting or threatening an imminent assault to the School Resource Professional or someone else; with a weapon, techniques or object that is likely to cause death or serious bodily injury.

Levels of Control (SRP's Response)

Level 1 - SRP Presence –

Identification of authority. The control manifested by the presence of an SRP or badge display, whether uniformed or not, on the scene. SRP presence projects an atmosphere of control and command.

Level 2 - Verbal Control –

The control manifested by the SRP's use of spoken commands and directions. This is a level of ranges from information gathering to requests for compliance to commands. SRP's should make every effort to gain voluntary compliance, in the form of advice, persuasion, admonitions, and/or orders.

Level 3 – Restraint And Control –

1. **Soft Empty Hand Control:** Control techniques that have a minimal probability of injury if the subject resists the technique, i.e. holding, grasping, compliant cuffing, escorting, and control holds, etc. Note: The use of neck restraints or similar weaponless control techniques with the wind-pipe (choke hold) is prohibited.
2. **Soft-Intermediate Weapon Control:** The use of an implement to affect control, in a manner that is unlikely to result in physical injury. Example: handcuffs.

3. **Hard Empty Hand Control:** Techniques that have a greater potential of injury and include pain compliance techniques such as joint manipulation, pressure points, takedowns, and strikes to the subject with the School Resource Professionals open hand, clenched fist, forearm or leg.

Level 4 – Lethal Force –

Any use of force that is likely, or readily capable under circumstances used, to cause death or serious bodily injury.

The building administrator and the Superintendent shall review the use of force and forward on to local law enforcement a copy of such report along with any applicable comments that include any suspicions that the force utilized may have been excessive. At that point, any indications that force was excessive shall be investigated by the department's criminal investigator or the PA State Police as determined by local law enforcement.

A written report of said incident shall be prepared and submitted immediately to the Superintendent or designee.

Procedures for Loss, Theft, and Disposal of Firearms

School Resource Professionals must report, by telephone or in person, the loss or theft of an issued firearm to the building administrator. The Superintendent will be notified immediately upon discovery of the weapon missing. School Resource Professional or designated personnel must also notify the appropriate law enforcement agency immediately.

A written report must be made to the Superintendent within twenty-four (24) hours of the loss or theft. The written report will describe the circumstances surrounding the loss or theft of the firearm.

The School Resource Professional should take immediate reasonable action to recover the firearm and to obtain all information available to aid in the investigation and recovery of the firearm.

Department Investigative Process for Discharge of Firearm

A School Resource Professional, except for target practice and qualification, shall use the following procedures to investigate every incident of firearms discharge.

1. Involved School Resource Professional:

1. Whenever a School Resource Professional discharges his/her firearm, either accidentally or officially, s/he shall IMMEDIATELY:
 - i. Determine the physical condition of any injured person and render first aid when appropriate.
 - ii. Contact the building administrator and request necessary emergency medical aid if needed.
 - iii. Notify Schuylkill County Emergency Management Service (911).
 - iv. Remain at the scene (unless injured) until the arrival of the appropriate investigators.
 - v. Notify the Tamaqua Borough Police Department and the State Police by the most expeditious means available.
 - vi. Protect said weapon and submit it to the appropriate investigator, if applicable.
 - vii. The School Resource Professional will prepare a detailed written report of the incident. The written report shall include the exact location and time of the incident, name, and

address of any witnesses, reason the firearm was fired and any other information that may be necessary for understanding and investigating the incident. The School Resource Professional shall not discuss the incident with anyone except supervisory personnel and the School Resource Professionals or designated personnel attorney.

viii. The School Resource Professional will make themselves available for administrative interviews and statements regarding the case.

ix. The School Resource Professional, the School Resource Professional's attorney, and the Tamaqua Area School District shall refrain from providing any interviews or statements to the media.

2. Building Administrator - The building administrator shall conduct an administrative investigation of every incident of firearms discharge by a School Resource Professional, except in the case of training. This administrative investigation will be conducted after the conclusion of any criminal investigation. The administrative investigation will be conducted to determine if the shooting was either within policy, outside of policy, or accidental.

3. Administrative Interview - The School Resource Professional or designated personnel will be advised that a post-shooting administrative interview involves certain rights and ramifications. These rights and ramifications include:

- a. That the investigation is narrowly defined to a specific shooting incident.
- b. If the administrative review concludes that the School Resource Professional's actions constitute misconduct, this is grounds for administrative action, including suspension and/or dismissal.
- c. The results of any administrative investigation will not be used against the SRP in any subsequent criminal prosecution.
- d. The building administrator or investigating officer will prepare a written report of his/her investigation.

4. Criminal Investigation - A criminal investigation will be conducted into every shooting by local law enforcement. The investigation will be conducted at the request of the School Resource Professional, building principal, and district Superintendent. The Police Department having jurisdiction will conduct the investigation after consultation with the Schuylkill County District Attorney.

5. Psychological Services for the School Resource Professional - In all cases as a result of a firearm discharge by a School Resource Professional, the involved School Resource Professional shall be required to undergo an emotional debriefing with a psychologist furnished by the Tamaqua Area School District within five (5) days of the incident.

Conditions Affecting the Ability to Carry a Firearm

School Resource Professionals shall notify the building administrator and Superintendent of any physical, emotional/mental or pharmacological conditions affecting his/her causing physical and/or emotional/mental impairment. Impairment shall be defined as a condition which can affect judgment, reaction time, or motor skills, as it may affect the ability to handle a firearm safely. At any time, the district Superintendent has the authority to remand weapons.

In those instances where a School Resource Professional personnel believes and/or medical personnel indicate that a physical condition, emotional/mental health condition or that any medication may affect judgment and/or reaction time, authorization to carry a firearm shall be suspended. Authorization shall be reinstated upon the cessation of the physical or emotional/mental health condition or upon cessation of the medication and its effects or with a physician's ruling that the medications or existing health

condition's potential contraindications would not be aversive to handling a firearm safely and proficiently.

Searches

School Resource Professionals will not conduct searches of a person unless s/he determines there is an immediate threat to someone's life. School Resource Professionals will conduct minimal searches of personal items of school visitors if metal detecting wands are utilized. If reasonable suspicion exists concerning individuals, additional personal property, or school property, the School Resource Professional(s) or designated personnel will immediately notify the building administration at which time a pat down or thorough search may be conducted by either the School Resource Officer or Principal.

Detention/Interrogation

School Resource Professionals may only detain individuals to assist administration and/or until the appropriate municipal police or state police are notified and arrive at the scene. Although no formal detention center exists, School Resource Professionals may assist with the detention of individuals within the Main Office of each school. The administration must be notified immediately of any individual being detained.

Medical Emergency Plan

In the event of a medical emergency, the School Resource Professional should immediately contact 911 Emergency Dispatch to alert the appropriate emergency first team, and notify the building administration. The School Resource Professional shall render aid to injured person(s) until emergency medical assistance arrives.

Handcuffs

Storage -

When not in use, all handcuffs are to be stored in a locked safe or cabinet that is capable of safely storing contents away from unauthorized personnel, students, and the general public.

School Resource Professional authorized to carry handcuffs shall have such under his/her control at all times.

Handcuffs shall be regularly cleaned and maintained in proper working order.

Use -

School Resource Professionals may use handcuffs to restrain and control persons who constitute a threat to the School Resource Professional or other persons who may be present on school premises at the time of said arrest. A report must be filed with the building administrator and the district Superintendent anytime handcuffs are used on an individual. The report should include the name of the individual(s) who were handcuffed and a detailed explanation of why this level of restraint was necessary.

Authorized personnel may use handcuffs to restrain and control persons and/or to control and/or detain a person until local law enforcement and/or other appropriate authorities arrive to take possession of the detainee.

School Resource Professionals must report, by telephone or in person, the loss or theft of issued handcuffs to Administration immediately upon discovery of the missing item.

A written report must be made within twenty-four (24) hours of the loss or theft. The written report will describe the circumstances surrounding the loss or theft of the handcuffs.

The School Resource Professional should take immediate reasonable action to recover the handcuffs and to obtain all information available to aid in the investigation and recovery of the handcuffs. School Resource Professionals or designated personnel must notify the appropriate law enforcement agency as soon as possible.

Pepper Spray (OC)

Storage –

When not in use, all pepper spray (OC) shall be stored in a locked safe or cabinet that is capable of safely storing contents away from unauthorized personnel, students, and the general public.

Personnel School Resource Professional authorized to carry pepper spray (OC) shall have such under his/her control at all times. Pepper spray (OC) shall be maintained in proper working order.

Loss of pepper spray (OC) shall be reported to the building administrator and the Superintendent.

Use –

Pepper spray (OC) shall be used in a safe environment in order to subdue extremely disorderly and/or unruly persons who perpetrate aggressive actions which may result in bodily harm to police officers the school resource professional or others in close proximity to these illegal actions.

Pepper spray (OC) may be used to subdue an aggressive individual who may be armed or unarmed with a non-lethal weapon. If it becomes necessary to deploy pepper spray (OC) indoors, the area should be evacuated and open to ventilation as soon as it is deemed safe to do so. The school nurse or local EMS should be contacted to administer first aid for persons suffering effects of pepper spray (OC).

This policy shall be periodically reviewed and any necessary changes shall be adopted by the Board. The school district shall be covered by appropriate liability insurance at all times for all duties and obligations contained in this policy. In the event it is necessary, all such authorized School Resource Professionals who are subject to the rules and regulations of this policy shall be represented by legal counsel at the sole cost and expense of the school district, except in the event that the School Resource Professional commits a willful, intentional and grossly negligent act with said weapon while on duty.

All costs and expenses necessary for the implementation of this policy shall be borne solely by the school district, which shall include the required periodic training of School Resource Professional and other authorized personnel.

In the event, a School Resource Professional fails to complete the necessary training to maintain his/her status as a certified School Resource Professional, the School Resource Professional or designated personnel shall immediately notify the Superintendent.

The School Resource Professional shall provide the district with a copy of the appropriate certifications within three (3) days of his/her receipt of same.

It is the responsibility of the School Resource Professional to conduct him/herself with the highest standards of professionalism while on or off duty.

The Board of Education of the Tamaqua Area School District met in regular session in room 305 of the Tamaqua Middle School on Tuesday, July 17, 2018 at 7:30 PM with President Larry Wittig presiding. President Wittig led with the "Pledge of Allegiance"; a moment of silent meditation followed.

PRESENT

Larry Wittig, President
Dr. Thomas Rottet, Vice President
Daniel Schoener, Treasurer
Nicholas Boyle

Eileen Meiser
Bryan Miller
Wanda Zuber

ABSENT

Melanie Dillman
Mark Rother

Administrative Staff in Attendance – Raymond Kinder, Superintendent; Steve Toth, Assistant Superintendent; Connie Ligenza, Business Administrator; and Kenny Dunkelberger, Chief Operations Officer

Others in Attendance – one member of the press and Attorney Jeff Bowe, Solicitor

Schoener made a motion seconded by Boyle to approve the minutes from June 19, 2018. Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Ligenza indicated that all correspondences and appropriate reports relating to the agenda were available to the members of the board.

Schoener made a motion seconded by Zuber to ratify the transfer of funds and payment of bills. Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR." Wittig "ABSTAINED"

Schoener made a motion seconded by Meiser to approve the treasurer's report. Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Superintendent's Report – Kinder indicated that the report in its entirety was attached to the agenda.

Hearings – None

President Wittig called for an executive session to discuss legal and personnel matters.

A 15-minute executive session was held.

President Wittig called for the recommendation of the committees.

Security Committee – Boyle presented the following item as a recommendation of the Security Committee.

Boyle made a motion seconded by Rother to approve the following:
Schoener made a motion seconded by Miller to forgo the reading of the following policy.
Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

First reading of the following policy:

Policy #705 Standard Operating Procedures for Persons

Authorized to Use Weapons

Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Auxiliary Committee – Rottet presented the following items as recommendations of the Auxiliary Committee.

Rottet made a motion seconded by Boyle to approve the following for the 2018-2019 school year: Tamaqua Area Booster Board; Coaches; Volunteers; Substitute Custodians; at stipends to be determined, contingent upon the submission of the necessary documentation.

Annual renewal of the Tamaqua Area Booster Board small games of chance license for district group use.

Jessica Mazaika, Volunteer Assistant Girls Tennis Coach.

Jim Dean, Andreas, PA, 18211, Volunteer Assistant Girls Tennis Coach.

Samuel S. Williams, Tamaqua, Volunteer Assistant Girls Tennis Coach.

Courtney Mundy, Lansford, PA, 18232, Volunteer Assistant Volleyball Coach.

James Barron, Tamaqua, Head Boys Basketball Coach.

James Mansell, Port Carbon, PA, 17965, Assistant Varsity Boys Basketball Coach.

Michael Murphy, Freshman Boys Basketball Coach.

Jeff Reading, Head Baseball Coach.

Robert Workman, Minersville, PA, 17954, Assistant Varsity Baseball Coach.

William Stalgaitis, Nesquehoning, PA, 18240, Volunteer Assistant Football Coach.

Tyler Skripko, Tamaqua, Volunteer Assistant Football Coach.

Laura Smith, Tamaqua, Substitute Custodian.

Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Education Committee – Meiser presented the following items as recommendations of the Education Committee.

Meiser made a motion seconded by Miller to approve the following for the 2018-2019 school year: Policies; Grant; Intermittent Family and Medical Leave; Retirement; Resignations; Teachers; Professional Employee Contract; Mentor; Rescind Motion; 2018 Extended School Year; Status Change; Part-time Paraprofessional, contingent upon the submission of the necessary documentation, stipends to be established.

Schoener made a motion seconded by Rottet to forgo the reading of the following policies.
Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Second reading of the following policies:

Policy #113	Special Education
Policy #113.1	Discipline of Students with Disabilities
Policy #113.2	Behavior Support
Policy #113.3	Screening and Evaluations for Students with Disabilities
Policy #113.4	Confidentiality of Special Education Student Information
Policy #114	Gifted Education
Policy #246	Student Wellness

Adoption of policies listed in a.

Schoener made a motion seconded by Rottet to forgo the reading of the following policies.

Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

First reading of the following policies:

Policy #111	Lesson Plans
Policy #112	Guidance Counseling
Policy #116	Tutorial Instruction
Policy #117	Homebound Instruction
Policy #119	Current Events
Policy #138	Language Instruction Educational Program for English Learner

Grant in conjunction with Lehigh Carbon Community College, \$19,992 for Second Step Curriculum

Laura Shook, elementary principal, to begin an Intermittent Family and Medical Leave to begin on or around July 13, 2018

Retirement of Timothy Murphy, teacher, effective August 15, 2018

Resignation of Susan M. Featro, teacher, effective August 20, 2018

Resignation of Dylan Peters, teacher, effective July 10, 2018

Melissa Scheetz, Pottsville, PA, 19701, Bachelors, Step 1, \$46,023, elementary teacher

Abby Graver, Tamaqua, PA, Bachelors, Step 1, \$46,023, elementary teacher

Aaron Gill, Bachelors, Step 7, \$47,870, Special Education teacher

Michelle Argust, ESL teacher, Master's, Step 5.43, \$51,420.38

Emilie Baker, professional employee status as of August 20, 2018

Jennifer Curcio, professional employee status as of August 20, 2018

Christa Mantz, professional employee status as of August 20, 2018

Robert Moulton, professional employee status as of August 20, 2018

Jennifer Oakley, professional employee status as of August 20, 2018

Julia Shoff, professional employee status as of August 20, 2018

Matthew Stine, professional employee status as of August 20, 2018

Dawn Walsh, mentor for Emily Sofranko, stipend - \$700

Rescind motion of March 20, 2018, hiring Jim Betz as a 2018 ESY teacher

Christa Mantz, teacher for the 2018 Extended School Year at \$25.00 per hour

Jacqueline Murphy, teacher for the 2018 Extended School Year at \$25.00 per hour

Faye Montgomery from Part-time Paraprofessional to Substitute
Paraprofessional

Heather Griffin, Tamaqua, Part-time Paraprofessional

Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Finance Committee – Schoener presented the following items as recommendations of the Finance Committee.

Schoener made a motion seconded by Meiser to approve the following for the 2017-2018 school year as presented; Tax Report; Donations; Affirmative Vote Resolution; Use of School Property; School Uniform Stipend; contingent upon the submission of the necessary documentation.

Donations:

ESRC \$2,500

Tamaqua Library \$3,500

Affirmative Vote Resolution

Matt Hope, Tamaqua, permission to use the triangular piece of property on Stadium Hill

Establish financial assistance relative to the dress code for a school uniform stipend at \$25.00 per student

Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Communications - None

Schoener made a motion seconded by Boyle to pay the monthly board invoices as presented. Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR." Wittig "ABSTAINED"

Old Business - None

New Business - None

Hearings – None

Schoener made a motion seconded by Boyle to adjourn the meeting at 8:04 PM. Wittig, Rottet, Schoener, Boyle, Meiser Miller and Zuber all voted "FOR."

Attest:

Connie Ligenza
Business Administrator/Board Secretary

The Board of Education of the Tamaqua Area School District met in regular session in the Cafeteria of the Tamaqua High School on Tuesday, August 21, 2018 at 7:30 PM with President Larry Wittig presiding. President Wittig led with the "Pledge of Allegiance"; a moment of silent meditation followed.

PRESENT

Larry Wittig, President
Daniel Schoener, Treasurer
Nicholas Boyle
Melanie Dillman

Eileen Meiser
Bryan Miller
Mark Rother
Wanda Zuber

ABSENT

Dr. Thomas Rottet, Vice President

Administrative Staff in Attendance – Raymond Kinder, Superintendent; Steve Toth, Assistant Superintendent; Connie Ligenza, Business Administrator and Kenny Dunkelberger, Chief Operations Officer

Others in Attendance – one member of the press and Attorney Jeff Bowe, Solicitor

Schoener made a motion seconded by Boyle to approve the minutes from July 17, 2018. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Ligenza indicated that all correspondences and appropriate reports relating to the agenda were made available to the members of the board.

Schoener made a motion seconded by Boyle to ratify the transfer of funds and payment of bills. Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." Wittig "ABSTAINED".

Schoener made a motion seconded by Meiser to approve the treasurer's report. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Superintendent's Report – Kinder indicated that the report in its entirety was attached to the agenda.

Hearings – None

President Wittig called for an executive session to discuss legal and personnel matters.

A five-minute executive session was held.

President Wittig called for the recommendation of the committees.

Security Committee – Boyle presented the following item as recommendations of the Security Committee.

Boyle made a motion seconded by Rother to approve the following:

Schoener made a motion seconded by Meiser to forgo the second reading of the following Policy: Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

First reading of the following policy:

Policy #705 Standard Operating Procedures for Persons
Authorized to Use Weapons (revised)

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Auxiliary Committee – Miller presented the following items as recommendations of the Auxiliary Committee.

Miller made a motion seconded by Rother to approve the following for the 2018-2019 school year: Deputize; Adult Game Worker list; Event Security list; Coaches/Volunteers; Substitute Custodian list; Drama Club Volunteer; Substitute Custodian; Substitute Health Room Assistant list; at stipends to be determined, contingent upon the submission of the necessary documentation.

The following persons to act in the capacity of attendance/truancy officers as listed:

Thomas McCabe
Tara M. Bunchalk-Orefice
Christopher Czapla
Laura Schook
James Betz

Adult Game Worker list
Event Security list

Lindsey Ahronian, Tamaqua, Assistant Cheerleading Coach
Joey Marcin, Tamaqua, Volunteer Assistant Football Coach
Emily Sofranko, Volunteer Assistant Girls Basketball Coach
Zach Chodur, Tamaqua, Volunteer Assistant Baseball Coach
Substitute Custodian list
Rebecca Ansbach, Tamaqua, Drama Club Volunteer
Paige Hess, Tamaqua, Substitute Custodian
Substitute Health Room Assistant list

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Education Committee – Meiser presented the following items as recommendations of the Education Committee.

Meiser made a motion seconded by Zuber to approve the following for the 2018-2019 school year: Policies; Agreement; Authorization; Salary Corrections; Substitute Coordinator; Family and Medical Leave; Teaching Assignments; Professional Substitute Teacher list; Professional Substitute Teacher; Professional Substitute Guest Teachers; Substitute Paraprofessional list; Resignation; Assignment Revision; contingent upon the submission of The necessary documentation, stipends to be established.

Schoener made a motion seconded by Miller to forgo the reading of the following policies:
Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Second reading of the following policies:

Policy #111	Lesson Plans
Policy #112	Guidance Counseling
Policy #116	Tutorial Instruction
Policy #117	Homebound Instruction
Policy #119	Current Events
Policy #138	Language Instruction Educational Program for English Learner

Adoption of policies listing in a.

First Reading of the following policies:

Policy #115	Vocational Technical Education
Policy #118	Independent Study
Policy #121	Field Trips
Policy #122	Extracurricular Activities
Policy #122.1	Drug and Alcohol Use in Extracurricular Activities/Interscholastic Athletics
Policy #123	Interscholastic Athletics
Policy #123.1	Concussion Management

Five-year agreement with Pennsylvania State University for practicum and/or
student teaching experience to begin with the 2018-2019 school year

Authorize the Superintendent to employ staff as needed

Adjust the salary of Melissa Scheetz, elementary teacher, \$40,623

Adjust the salary of Abby Graver, elementary teacher, \$40,623

Jody Bachert, Substitute Coordinator

Kelly Sajone, using 15 sick day and 13 FMLA days, to begin a Family and
Medical Leave on or about October 19, 2018 and return on or about
December 3, 2018

Teaching Assignment list

Professional Substitute Teacher list

Susan Featro, New Ringgold, PA, 17960, Substitute Teacher

Amy Danisavach, Cumbola, PA, 17930, Professional Substitute Guest Teacher

Angelina Fritz, Barnesville, PA, 18214, Professional Substitute Guest Teacher

Alycia Gerber, Tamaqua, Professional Substitute Guest Teacher

Suzanne Lobichusky, Barnesville, PA, 18214, Professional Substitute Guest
Teacher

Ashley Longo, Mahanoy City, PA, 17948, Professional Substitute Guest
Teacher

Robert Pickett, Tamaqua, Professional Substitute Guest Teacher

Pamela Smith, New Ringgold, PA, 17960, Professional Substitute Guest Teacher

William Savitsky, Shenandoah, PA, 17976, Professional Substitute Guest Teacher

Substitute Paraprofessional list

Jamie Little, resign as a full-time paraprofessional

Linda Valenti, part-time paraprofessional to full-time paraprofessional

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Finance Committee – Schoener presented the following items as recommendations of the Finance Committee.

Schoener made a motion seconded by Zuber to approve the following for the 2018-2019 school year as presented; Tax Report; E-signature; AVTS Authority; Real Estate Tax Appeals; Agreement; Bus Drivers; Bus Runs; Substitute Clerical list; contingent upon the submission of the necessary documentation.

Tax Refunds:

Schuylkill Township	2017 Assessed Occupation and Real Estate
West Penn Township	2015, 20156, 2017 Per Capita and Assessed Occupation

Authorize the Superintendent to sign electronic agreements with the PA Department of Education

Appoint member, Larry Wittig to the AVTS Authority

Authorize the solicitor to submit appeals for qualifying properties as per the list presented

Participation in the Child Nutrition Program with the Schuylkill Intermediate Unit #29 and TASD

Participation in the Child Nutrition Program with the Schuylkill County AVTS Operation Agency and TASD

Memorandum of Understanding with Lehigh Carbon Community College Shine Program for Food Service

Lehigh Carbon Community College Shine Program Sponsor to Sponsor Agreement (PDE 3086)

Justice Works Youth Care, Inc. for alternative education services for disruptive youth

Behavioral Health Associates for alternative education services

Bus driver list

Bus routes and stops

Substitute Clerical list

Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." Wittig "ABSTAINED".

Schoener made a motion seconded by Miller to approve the President and Secretary of the Board of Directors to execute a deed of correction to the Diocese of Allentown to correct the legal description that was contained in the deed at the time of settlement of the sale of Rush Elementary School, Hometown.

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Communications - None

Schoener made a motion seconded by Boyle to pay the monthly board invoices as presented. Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." Wittig "ABSTAINED".

Old Business - None

New Business - None

Hearings - None

Schoener made a motion seconded by Boyle to adjourn the meeting at 8:05. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Attest:

Connie Ligenza
Business Administrator/Board Secretary

The Board of Education of the Tamaqua Area School District met in regular session in the cafeteria of the Tamaqua High School on Tuesday, September 18, 2018 at 7:30PM with President Larry Wittig presiding. President Wittig led with the "Pledge of Allegiance"; a moment of silent meditation followed.

PRESENT

Larry Wittig, President
Daniel Schoener, Treasurer
Nicholas Boyle
Melanie Dillman

Eileen Meiser
Bryan Miller
Mark Rother
Wanda Zuber

ABSENT

Thomas Rottet, Vice President

Administrative Staff in Attendance – Raymond Kinder, Superintendent; Steve Toth, Assistant Superintendent; Connie Ligenza, Business Administrator and Kenny Dunkelberger, Chief Operations Officer

Others in Attendance – one member of the press and Attorney Jeff Bowe, Solicitor

Schoener made a motion seconded by Miller to approve the minutes from August 14, 2018 and August 21, 2018. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Ligenza reported that all correspondences and appropriate reports relating to the agenda were made available to the members of the board.

Schoener made a motion seconded by Boyle to ratify the transfer of funds and payment of bills. Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR." Wittig "ABSTAINED"

Schoener made a motion seconded by Rother to approve the treasurer's report. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Superintendent's Report – Kinder indicated that the report in its entirety was attached to the agenda.

Hearings – None

President Wittig called for an executive session to discuss legal and personnel matters.

There was none.

President Wittig called for the recommendation of the committees.

Security Committee – Boyle presented the following item as recommendation of the Security Committee.

Boyle made a motion seconded by Rother to approve the following. Schoener made a motion seconded by Meiser to forgo the reading:

Second reading of the following policy:

Policy #705 Standard Operating Procedures for Persons
Authorized to Use Weapons (revised)

Adoption of Policy #705

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Auxiliary Committee – Miller presented the following items as recommendations of the Auxiliary Committee.

Miller made a motion seconded by Zuber to approve the following for the 2018-2019 school year: Resignation; Advisor; Status Change; Coaches; at stipends to be determined, contingent upon the submission of the necessary documentation.

Michele Bittner, resignation as Band Front Advisor, effective August 17, 2018

Samantha Bubel, Band Front Advisor - \$1,208

Kaitlyn Herling, Tamaqua, Volunteer Band Front Advisor

Ed Titus, Tamaqua, status change from Volunteer Assistant Football Coach to Junior Varsity Assistant #2 Co-Coach - \$1,300

Frank McCarroll, Tamaqua, Junior Varsity Boys Basketball Coach - \$2,743.50

Owen Koch, Tamaqua, 8th Grade Boys Basketball Coach – \$1,732.41

Dylan Scott, Andreas, PA, 18211, 7th Grade Boys Basketball Coach - \$1,650

Craig Valentine, Tamaqua, Volunteer Assistant Baseball Coach

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Education Committee - Meiser presented the following items as recommendations of the Education Committee.

Meiser made a motion seconded by Boyle to approve the following for the 2018-2019 school year: Policies; Policy Adoption; Act 80 Day; Contract; Out of State Trips; Agreement; Resignation; Teacher; Substitute Teacher; Substitute Professional Guest Teacher; Unpaid Day; Resignation; Family and Medical Leave; contingent upon the submission of the necessary documentation, stipends to be established. Schoener made a motion to forgo the reading of the following policies:

First Reading of the following policies:

Policy #115 Vocational Technical Education

Policy #118 Independent Study

Policy #121 Field Trips

Policy #122 Extracurricular Activities

Policy #122.1 Drug and Alcohol Use in Extracurricular
Activities/Interscholastic Athletics

Policy #123 Interscholastic Athletics
Policy #123.1 Concussion Management

Adoption of policies list in a.

Act 80 Day, August 27, 2018, elementary buildings only

Three-year contract with IXL Learning, San Mateo, CA, 94404, for math and ELA classroom site license, not to exceed \$35,125, payments over a three-year period as follows:

1st year - \$14,050

2nd year - \$10,538

3rd year – \$10,537

AP Biology students to Chincoteague Bay Field Station, late October, for Coastal Ecology Program

Honors Biology students to the Bronx Zoo, late April 2019, annual Keystone review project

Anatomy and Physiology students to the Mutter Museum, late November 2018, to study late 19th Century medical specimens

Carbon Lehigh Intermediate Unit #21 for 2018-2019 Special Education services

Krista LaBraico, resign as an elementary teacher, effective at a date agreed upon with the Superintendent

Robert Moulton, resign as a high school teacher, effective at a date agreed upon with the Superintendent

Kyrsten Montiero, Lehigh, PA, 18235, elementary teacher, Bachelor's, Step 1, \$40,623

Megan Hine, Andreas, PA, 18211, Professional Substitute Teacher

Pamela Sabath, New Ringgold, PA, 17960, Professional Substitute Guest Teacher

Tatevik Sakash, Tamaqua, Professional Substitute Guest Teacher

Frank Berleth, Tamaqua, Professional Substitute Guest Teacher

Brianne Hayle, New Ringgold, PA, 17960, Professional Substitute Guest Teacher

Brett Hoch, Tamaqua, Professional Substitute Guest Teacher

Nancy Pacchioli, Barnesville, PA, 18214, Professional Substitute Guest Teacher

Alisa Kemmerer, ½ unpaid day, September 10, 2018

Jessica Grim, part-time paraprofessional, resign effective September 18, 2018

Alison Marmas, elementary nurse, Family and Medical Leave, on or about December 7, 2018 and return on or about January 28, 2019, not using any sick days

Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."

Finance Committee – Schoener presented the following items as recommendations of the Finance Committee.

Schoener made a motion seconded by Rother to approve the following for the 2018-2019 school year as presented; Tax Report; PSBA; Professional Service Salaries; contingent upon the submission of the necessary documentation.

Tax Refunds:

Tamaqua Borough 2015, 2016 Assessed Occupation, Per Capita
Rush Township 2015, 2016, 2017 Assessed Occupation, Per Capita
West Penn Township 2015, 2016, 2017 Assessed Occupation, Per Capita

Vote for the PSBA Board, the PSBA Insurance Trust and the PSBA Steering Committee as presented
2018-2019 Professional Service Salaries

Communications - None

Schoener made a motion seconded by Rother to pay the monthly board invoices as presented. Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."
Wittig "ABSTAINED."

Old Business - None

New Business - None

Hearings – None

Schoener made a motion seconded by Miller to adjourn the meeting at 7:41. Wittig, Schoener, Boyle, Dillman, Meiser, Miller, Rother and Zuber all voted "FOR."


Attest:

Connie Ligenza
Business Administrator/Board Secretary

VERIFICATION

I hereby state that that the averments relating to my personal circumstances are true and correct and that the remainder of the allegations are true and correct to the best of my information and belief.

December 30 2018

A handwritten signature in black ink, appearing to read "Holly Asfesh", written over a horizontal line.

VERIFICATION

I hereby state that that the averments relating to my personal circumstances are true and correct and that the remainder of the allegations are true and correct to the best of my information and belief.

December 3rd 2018

Wm J. Thine

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Case Records Public Access Policy of the Unified Judicial System of Pennsylvania that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Martin J. Black

Signature: Martin J. Black

Attorney No. 54319

**IN THE COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY
TWENTY-FIRST JUDICIAL DISTRICT OF PENNSYLVANIA**

HOLLY KOSCAK, individually and as a
parent of Tamaqua Area School District
student J.K.

Case No. _____

DARRELL L. FLACK, JR. individually and
as a parent of Tamaqua Area School District
student L.A.H, K.H. and D.F.,

ANGELA M. FLACK, individually and as a
parent of Tamaqua Area School District
student D.F.,

SARA J. THIERER

Plaintiffs,

v.

TAMAQUA AREA SCHOOL DISTRICT

Defendant.

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

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