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## SUPERSTORM SANDY SIDELINES SCHOOLS

Hurricane Sandy was the tenth named hurricane of the 2012 season, and became the largest on record with winds spanning 1,100 miles. It slammed into Long Island on Monday October 29<sup>th</sup> affecting south shore neighborhoods especially hard. Schools across Long Island were closed on average from one to two weeks. Over fifty percent of Long Island school districts have announced plans to cancel all or part of the upcoming February vacation in order to make up for the class time. Some schools have not yet decided how to make up the time, and many are dealing with complaints related to disrupted travel and vacation plans. This is all occurring prior to the start of winter where the number of school days lost to winter storms is still to be determined.



New York State law provides that schools must generally be in session at least 180 days per school year. Days that can be counted toward the total days include superintendent's conference days and testing days. However, makeup days cannot be scheduled during summer months (July or August), or on most legal holidays. While Education Commissioner John King is authorized to grant school districts waivers of up to five days under "extraordinary circumstances" his office has suggested districts must exhaust vacation days first.

## CUOMO'S EDUCATION REFORM COMMISSION COMES TO LONG ISLAND

Governor Cuomo's Education Reform Commission convened a regional hearing at SUNY College at Old Westbury. Rockville Centre South Side High School Principal Carol Burris was one of several speakers who objected to the emphasis on testing and teacher evaluations. She stated, "The obsession with test-based evaluation of students, schools and teachers is tearing the schools we love apart." She continued, "Something is very (continued on page 2)



wrong when 9-year olds sit for tests that are longer than the SAT and the Graduate Record Exam combined.” The more than 200 people at the nearly four hour hearing clapped loudly in response to Burris’ remarks. Education Commissioner John King responded to Burris saying that his disagreement with her on “these issues is well-documented.” King stated further that “the law provides a tremendous amount of local flexibility ... I think it’s unfair to characterize the law as one size fits all, which is not true.” Commissioner Michael Rebell asked Burris to submit in writing what kind of flexibility New York can give to local school districts and still meet the federal government’s mandates. The Old Westbury hearing was the seventh of nine that the 20-member commission is convening around New York State. By December it will submit a preliminary report to the governor’s office and the commission will file its final report by September 2013, said commission chairman Dick Parsons.



**EDUCATION QUOTE...** *“The beautiful thing about learning is that no one can take it away from you..”* [B.B. King](#)

## REGULATORY UPDATES

### NYS DEPARTMENT OF EDUCATION



- BOARD OF REGENTS ALLOWS MORE PATHS TO GRADUATION**  
Effective October 31, 2012 the Board of Regents approved an amendment to §100.5 of the Regulations that provides an additional option for a student with a disability to earn a local diploma through the use of a “compensatory option” conditioned on the student meeting a number of specific requirements. An **Eligibility Checklist** for the Compensatory Safety Net Option can be found at: [www.p12.nysed.gov/specialed/publications/safetynet-comp-attB.htm](http://www.p12.nysed.gov/specialed/publications/safetynet-comp-attB.htm)
- NO SANDY WAIVER FOR SPECIAL EDUCATION SERVICES ... BUT FLEXIBILITY GIVEN** NYSED announced that while neither NYSED nor USDOE are authorized to provide hurricane related waivers related to special education services under IDEA, the State will not issue findings of noncompliance to a district because of its failure to meet these requirements when it is the direct result of the State disaster emergency. In a Field Advisory, NYSED stated it is “expected that school districts will use such flexibility only to the extent and for the duration as absolutely necessary and consistent with the conditions they are facing to bring normalcy back to the education programs for their students with disabilities.”
- OCCUPATIONAL THERAPY SUPERVISION STANDARDS** Effective September 11, 2012 standards regarding the supervision of occupational therapy assistants (COTAs) and holders of limited permits in occupational therapy have been established in regulations of the Commissioner of Education. These

include a requirement that a written supervision plan be prepared for each supervised professional. The standards for occupational therapy assistants can be found in § 76.8 of the regulations, and the standards for holders of limited permits at §76.4(c).

## **US DEPARTMENT OF EDUCATION**

- **DUNCAN FOCUSES ON SECOND-TERM AGENDA** In his first post-election remarks, Secretary of Education Arne Duncan suggested he would use his second term to continue to leverage education improvement at the state and local levels, with an emphasis on teacher and principal preparation and evaluation. He indicated that if Congress failed to act reauthorizing NCLB, then USDOE would not devote a lot of time to it. Duncan indicated he would continue to use federal incentives to drive education policy changes. First term leverage came in the form of \$100 billion in aid from the economic stimulus package, and from the announcement that the administration would grant waivers and flexibility from NCLB.
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- **RACE TO THE TOP APPS SUBMITTED AS AWARD DATE LOOMS** USDOE announced it received applications from over 1,100 school districts nationwide for the Race to the Top-District competition, including many from Long Island school districts. Awards for the competition will be announced no later than December 31, 2012.
  - **EARLY SNAPSHOT OF SIG DATA RELEASED** USDOE released an early snapshot of student performance data at schools that have received federal SIG program funds. The data begins in the 2009-2010 school year and ends in the 2010-2011 school year, the first year schools received SIG funds.
  - **STATE-BY-STATE H.S. GRADUATION RATES RELEASED** USDOE released a first-ever list detailing state-by-state four-year high school graduation rates. To view the data see [www.eddataexpress.ed.gov/](http://www.eddataexpress.ed.gov/)

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## **BEHAVIOR IN EDUCATION**

**SW-PBIS STUDY** Previous studies have shown that when implemented with fidelity, SW-PBIS reduces office discipline referral (ODR) rates for major problem behaviors for students as a whole. However, results typically have not been disaggregated to indicate whether students in special education benefit. In this recent sample study of eighty-five schools that implemented SW-PBIS with fidelity and reduced ODR rates by 10% or more, researchers found these schools were able to reduce discipline referral rates for major offenses for the school as a whole, as well as for students in special education. The results must be viewed cautiously however, given the lack of information about the interventions being implemented that were associated with the overall reduction in major ODR rates, and the lack of information about what additional factors may have influenced the increases and decreases in the percentages of students with ODRs who also had IEPs. Schools should study their data to see if interventions that are helping the school as a whole are also helping students in special education.



## HIGH SCHOOL STUDENT PUBLIC SUICIDE

Felicia Garcia ended her life by jumping in front of a train in front of schoolmates reportedly after a series of despondent text messages and Facebook updates. Speculation raged whether the 15-year-old's very public suicide was tied to teasing she endured following an alleged sexual encounter she had with some members of the football team. That teasing was pinned on two students not on the team, both of whom were later removed from the Staten Island High School. No criminal charges have been filed, although four football players have been suspended. When asked if the suspensions were related to the investigation, the Principal commented, "I'm not making that connection... There may have been some connection. But to put this at the door of particular players would be incorrect."

## NYC SUSPENSIONS OF 4- & 5-YEAR-OLDS

**DRAW FIRE** Data recently released reveals that nine NYC elementary schools doled out at least 10 suspensions to 4- and 5-year olds last school year. Noting that the suspension policies hit minority and special education students hardest, New York Civil Liberties Union executive director Donna

Lieberman commented "It's hard to fathom any reason why 4-year-olds would be suspended from school by a competent educational system." Indeed the statistics show that minorities and children with special needs were more often the targets of discipline. Black students served 53% of the suspensions while they represent just 28% of the city's students. In all, 69% of suspensions went to boys, though they make up 51% of the student populations. Additionally, students with disabilities make up just 12% of the student population but serve 32% of the suspensions.

## SOCIAL EMOTIONAL LEARNING

On December 6, 2012 at Nassau BOCES George Farber Administrative Center, as part of a series of workshops hosted by the Long Island Social & Emotional Literacy Forum (LISELF), almost fifty educators came together to discuss how social and emotional literacy (SEL) relates to the recently enacted Dignity for All Students Act (DASA). There was a lively discussion about the benefits of SEL and strategies to increase the effectiveness of new or already existing programs.

## LEGAL BRIEFS

### SUPREME COURT TO RULE ON USE OF RACE IN COLLEGE ADMISSIONS

The Supreme Court heard arguments in *Fisher v. University of Texas*, a case about diversity in higher education and how much of a role, if any, the courts should have in determining how admissions officers consider race in college acceptance decisions. Justice Sonia Sotomayor arguably summarized the central question in the case when she asked at "what point ... when ... do we stop deferring to the university's judgment that race is still necessary? ... That's the bottom line of this case." If the justices decide to strike down the longstanding practice of affirmative action in college admissions, it could greatly affect whom colleges choose to admit and why.



## 2<sup>nd</sup> CIRCUIT COURT OF APPEALS RULES ON “RETROSPECTIVE TESTIMONY” R.E. et al v.

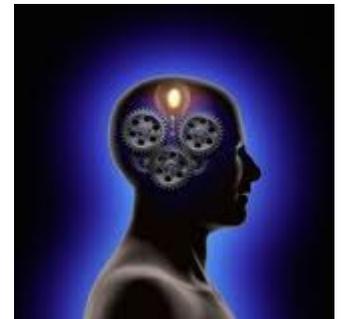
**NYCDOE** The 2<sup>nd</sup> Circuit ruled on when, if ever, it is permissible for a district to augment the written IEP with “retrospective testimony” about additional services that would have been provided at the proposed placement. “Retrospective testimony” is testimony that certain services not listed in the IEP would actually have been provided to the child if he or she had attended the school district’s proposed placement. The court held that the IEP must be evaluated prospectively as of the time of the drafting and therefore retrospective testimony may not be considered in a Burlington/Carter (tuition reimbursement) proceeding. In its ruling the Court rejected a rigid “four corner” rule prohibiting testimony that goes beyond the face of the IEP. The court held that while “testimony that materially alters the written plan is not permitted, testimony may be received that explains or justifies the services listed in the IEP.”

**KENTUCKY SUPREME COURT CONSIDERS MIRANDA RIGHTS IN SCHOOL CASE** The Kentucky Supreme Court is considering a case that would require schools to read Miranda rights to students being questioned. Last year the U.S. Supreme Court held in a North Carolina case that a child’s age must be considered in determining whether he has a right to a Miranda warning. Opponents of requiring the warnings say that simple investigations would be hamstrung, and that schools would be less safe if principals had to predict which cases might lead to criminal charges. Proponents argue that principals routinely “orchestrate” interrogations with police to “streamline” prosecution of students, making it only fair that they be warned of their right to remain silent and obtain counsel. Some argue principals should step aside when students are suspected of criminal conduct.

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## CLINICAL CORNER

**ADHD MEDICATION CAN LOWER RISK OF CRIMINAL BEHAVIOR** People with ADHD are significantly less likely to engage in criminal behavior when they are taking medication. The finding came in a large-scale study conducted in Sweden and was published in the *New England Journal of Medicine*. More than 25,000 patients were analyzed over a four-year period (2006-2009). The research demonstrated that when patients took medication, they experienced a reduction in their criminality risk of 32%. Researcher Henrik Larsson commented “*we have shown that ADHD medication very probably reduces the risk of crime. However, we need to point out that most medical treatments can have adverse side effects, so risks must be weighed up against benefits and the individual patient’s entire life situation taken into consideration before medications are prescribed.*”



**CLASSROOM OF THE FUTURE BOOSTS MATHEMATICS SKILLS** Researchers designing and testing the “classroom of the future” have found that multi-touch, multi-user desks can boost skills in mathematics. The findings published in the journal *Learning and Instruction*, show children who use a collaborative mathematics activity in this type of environment improve in both mathematical flexibility and fluencing, while children working on traditional paper-based activities only improve in flexibility. Researcher Emma Mercier commented that “cooperative learning works very well in the new classroom because the pupils interact and learn in a different way... We can achieve fluency in mathematics through practice. However, boosting a pupil’s ability to find a range of solutions to arithmetic questions is harder to teach.”



## Special Education Crossword Puzzle

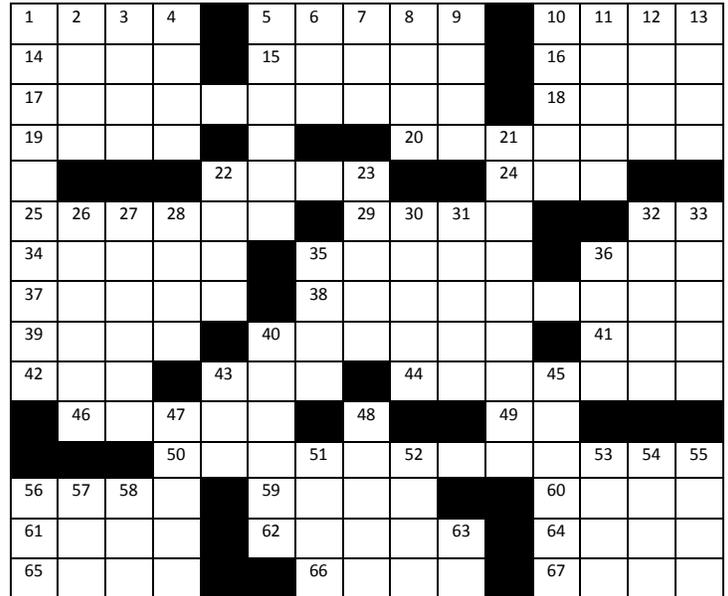
### Across

- 1 In between "ifs" and "buts"  
 5 Make fit  
 10 Mexican dish  
 14 Root vegetable; sugar \_\_\_\_  
 15 Kind of role or appearance  
 16 \_\_\_\_\_ Roberts University  
 17 USDOE Commissioner  
 18 Mud  
 19 Toys for \_\_\_\_\_  
 20 =, -, + are Math \_\_\_\_\_  
 22 Type of cell research  
 24 Eastern Standard Time, abbrev.  
 25 Twenty times four  
 29 Famed Psychologist Pavlov  
 32 Follows Do-Re-Mi  
 34 Ancient peep show  
 35 Fern  
 36 Data Release Number, abbrev  
 37 Accumulate  
 38 Cowboy Hat  
 39 School Wide Behavior Plan Initials  
 40 40-Year-Old Virgin Actor Steve  
 41 Actress Lupino  
 42 \_\_\_ & Yang  
 43 Lou Gehrig's Disease  
 44 King of the Eared Seals?  
 46 Bi or tri exercise machine  
 49 SNL Parent Company  
 50 English subjects collectively  
 56 Sesame Street Muppet  
 59 \_\_\_\_\_ Curriculum  
 60 Trim, as with an apple  
 61 Mediterranean and Ural  
 62 Perceives  
 63 Of or relating to the mouth

- 64 Window section  
 65 Lento, English  
 66 Federal Storm Agency

### Down

- 1 Autism Intervention  
 2 Roman emperor  
 3 Car ding  
 4 Plush hotel rooms, abbrev  
 5 Keeness  
 6 Marino of NFL fame  
 7 Old Movie Cable Network  
 8 Things in a pod  
 9 Theatre Award  
 10 Burial place  
 11 Inciting \_\_\_\_\_  
 12 Rogers & Jung  
 13 Bullfight cheers  
 21 IQ Developmental measurement  
 22 Address abbreviations  
 23 Type of runner  
 26 Poetic pentameter  
 27 Photograph characteristic  
 28 Oil Co & Popular Gift Truck  
 30 Weather pointers  
 31 Right or Acute  
 32 Famous Hobbit  
 33 UN President Kofi  
 35 Home-School Orgs  
 36 552 in Roman Numerals



- 40 Do this to your teeth or fist  
 43 Chicken \_\_\_\_ King  
 45 \_\_\_\_\_ Faith (Kierkegaard)  
 47 Fatal Attraction Actress Glenn  
 48 Wall Painting  
 51 Follows  
 52 Flight prefix  
 53 Not frequent  
 54 This gets you to Roosevelt Island  
 55 Actress Ward of CSI, House & The Fugitive  
 56 Psychic ability  
 57 School District abbreviation  
 58 Homo Sapien  
 63 Opposite of NE

Solution to Puzzle – <http://blueseaeeducation.com/educational-resources/newsletter/>

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