



Court Report

Education Law News You Can Use

Federal judge dismisses parts of lawsuit over anti-abortion student group in Noblesville

After an anti-abortion student group was granted access to meet as a club, the approval was revoked. The Federal District Court ruled on the school district's motion to dismiss and denied the motion as to most of the Equal Access Act, First Amendment and state constitutional claims. Certain defendants and state tort claims were dismissed.

Fifth Circuit Affirms Dismissal of Title VI Student-on-Student Harassment Claim

The Circuit Court held that a school corporation "is not deliberately indifferent where it actively responds to harassment, provided that its response is not pretextual or knowingly ineffective." Continuing, the Court explained, "An adequate response need not put an end to harassment, nor be the most effective measure available. Administrators are entitled to make these decisions without second-guessing from courts." Here, the district investigated and disciplined students, but there was a dispute as to whether an administrator was informed of other incidents, thus defeating the student's Title VI claim.

Colorado District Settles with Students Alleging Title IX Violations

Following a lawsuit filed by students who were raped that alleged a culture that was hostile to female students, the district settled the claim prior to summary judgment motions. The district denied the claims. In the midst of these claims, several students had been criminally charged with sexual assaults of female students.

Justice Kavanaugh Questions Legality of FLSA Regulations

In a case involving the application of a particular exemption to the Fair Labor Standards Act, Justice Kavanaugh questioned the broader rules, commonly known as the "white collar exemptions," that limit the exemptions. If these rules are indeed unlawful, many more employees could be deemed nonexempt and thus not entitled to overtime payments under the Fair Labor Standards Act.

West Virginia School District Files Suit Against Travel Vendor Who Did Not Refund COVID-Cancelled Trip

When a trip to Washington, D.C., during the 2019-2020 school year was cancelled due to COVID-19 restrictions, a travel company did not refund payment to approximately 150 families. After trying for nearly two years, the school district filed suit.

Virginia Judge Dismissed Lawsuit Challenging "Woke" School Board Policies But Allows Time to Amend Complaint

Alleging racial and gender indoctrination, parents of students filed suit against a school board and administrators. A court dismissed the lawsuit as containing conclusory, vague statements, but the judge allowed the families to amend the complaint, clarify, and refile.

Federal Judge Strikes Down EEOC Guidance on Transgender Accommodations

A judge in Texas entered an injunction against the EEOC and ruled that the guidance regarding bathroom and pronoun accommodations was unlawful. The judge found that the U.S. Supreme Court's Bostock ruling did

not address restrooms or pronouns, and that the EEOC guidance document exceeded legal authority of the EEOC.

Pending U.S. Supreme Court Petitions to Watch:

- **State Health Plan for Teachers and State Employees v. Lake**: Whether a state legislature's express reservation of the right to amend a statute providing benefits to government employees bars a claim under the Constitution's contracts clause based on the legislature's later decision to amend those benefits.
- **Central Specialties v. Large**: Whether, before proceeding to the qualified immunity analysis, courts must determine that a government official was acting within the scope of his authority.
- **Jones v. City of Detroit, Michigan**: Whether a public entity can be vicariously liable under a theory of respondeat superior for its employees' violations of Title II of the Americans with Disabilities Act or the Rehabilitation Act.
- **Fairfax County School Board v. Doe**: (1) Whether a recipient of federal funding may be liable in damages in a private action under Davis v. Monroe County Board of Education in cases alleging student-on-student sexual harassment when the recipient's response to such allegations did not itself cause any harassment actionable under Title IX; and (2) whether the requirement of "actual knowledge" in a private action under Davis is met when a funding recipient lacks a subjective belief that any harassment actionable under Title IX occurred.
- **Groff v. DeJoy**: (1) Whether the court should disapprove the more-than-de-minimis-cost test for refusing religious accommodations under Title VII of the Civil Rights Act of 1964 stated in Trans World Airlines, Inc. v. Hardison; and (2) whether an employer may demonstrate "undue hardship on the conduct of the employer's business" under Title VII merely by showing that the requested accommodation burdens the employee's coworkers rather than the business itself.
- **Counterman v. Colorado**: Whether, to establish that a statement is a "true threat" unprotected by the First Amendment, the government must show that the speaker subjectively knew or intended the threatening nature of the statement, or whether it is enough to show that an objective "reasonable person" would regard the statement as a threat of violence.

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