



# Court Report

Education Law News You Can Use

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## [As Voters Head to Polls, Parents Rights Remains a Hot Topic](#)

COVID policies, CRT, transgender issues, and school library offerings have fueled national efforts at federal, state and local levels to expand existing legal rights of parents or create new causes of action.

## [PA Federal Judge Claims of Constitutional Violation by Teacher and School District Where Teacher Promoted Transgender Agenda are Plausible](#)

A district court in Pennsylvania concluded that where a complaint alleged a teacher promoted her own agenda to her first grade children about gender dysphoria and transgender transitioning, including showing videos or reading books about those topics, telling the children that parents may be wrong about the child's gender, telling a child she would never lie (implying the parents may be lying about the child's identity), telling the children to keep the discussions about transgender topics secret, and grooming a student to become a transgender child, the parents had plausibly pled constitutional claims that would withstand a motion to dismiss.

## [NAEP Research Assists School Leaders in Deploying ESSER Funds](#)

The abysmal Nation's Report Card provided the first review of the impact school closure had on learning. A collaboration of educational research between Harvard and Stanford Universities provides insight on federal ESSER fund expenditures and an opportunity to recalibrate expenditures to address learning loss.

## [7th Circuit \(IN, IL, WI\) Rejects White Athletic Director's Reverse Discrimination Claims](#)

A white male applicant for director of athletics brought a Title VII reverse discrimination claim that was dismissed at summary judgment and the dismissal was affirmed on appeal. Ultimately a black candidate was successful, even though on paper the white candidate appeared more qualified. But the paper resume was only half of the story as the black candidate outperformed the plaintiff in interviews.

## [TN Federal Judge Denies Injunction Request by Third-Grade Transgender Student](#)

A third-grade student seeking to gain access to multi-occupancy bathrooms filed suit against a school district in Tennessee. A federal judge, citing Sixth Circuit (KY, MI, OH, TN) precedent, concluded that the student could not demonstrate a likelihood of success on the merits because the U.S. Constitution only required a rational basis review, not strict scrutiny, and Title IX permitted separate facilities.

## [MD Federal Judge Upholds School District's Transgender-Accommodating Guidelines as Rational](#)

A district court in Maryland concluded that a school district's guidelines for student gender identity satisfied rational basis review, and it dismissed a lawsuit filed by parents that raised constitutional claims. The court held that the school had legitimate interest in providing safe and supportive environment for all students, including those who were transgender and gender nonconforming, and guidelines were rationally related to achieving that result.

## MA Parents Allege in Federal Lawsuit that District Concealed From Parents that Children Had Adopted New Names and Pronouns

A lawsuit alleging constitutional violations claims that the parents objected to the district and staff using the names and pronouns requested by students, but that later a counselor, a teacher and other staff supported the children's wishes as required by state standards and their own policies. After a teacher (who was later fired) informed the parents, parents learned of these allegations.

## OH School Board Resolves Federal Lawsuit Over Public Comment

Following the filing of a lawsuit regarding its public meetings, a school district in Ohio suspended public comment while review of its policies was conducted. However, the parties subsequently settled the dispute after the District created a new public comment policy.

## FL Students, Parents & Teachers File New Challenge to Parents Rights Law

A FL federal judge dismissed a prior lawsuit that raised constitutional challenges to the Florida law that restricted classroom instruction on gender identity and sexual orientation, but a new 60- page complaint has been filed in a renewed effort to strike down the law. The new complaint alleges that the state law violates constitutional due-process, equal-protection and First Amendment rights, along with Title IX.

## Status Update on Lawsuits Challenging Limitations on Discussions Regarding Race

Education Week reports an update on the status of these lawsuits from around the country. In four of the 17 states that have enacted laws, legal challenges have been filed in federal court. Most of these laws have the same eight or so "divisive concepts" listed, which, in many cases, are so vague it's hard to tell what exactly they're banning, educators and experts across the country have said.

### **Pending U.S. Supreme Court Petitions to Watch:**

- **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. ***Petition is denied.***
- **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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