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Court Report

Education Law News You Can Use

Federal Judge Finds Georgia School District Board Policy On Profanity and Public Comment to Violate the First Amendment

Among the school board's meeting rules are one that says in part: "Members of the public shall conduct themselves in a respectful manner...." Another says in part: "Remarks shall not be addressed to individual Board members." But a federal judge said that these rules may not be enforced under the First Amendment.

Equal Protection Clause and Title VI Lawsuit Challenging Texas School District Consolidation Decisions Proceeds to Trial

After a Texas school district chose to close three elementary schools in or near Chamizal, a "working-class, immigrant, Mexican-American" neighborhood, an organization filed suit alleging violations of the Equal Protection Clause and Title VI by intentionally discriminating against Hispanic and Mexican American students and families on the basis of race. The federal district court denied the school district's summary judgment decision, concluding that factual disputes on the elements of the claim allow the case to go to a jury.

Former Employee of Louisiana District Seeking Records of Investigation Loses Lawsuit

A former employee of a school district in Louisiana was denied, on appeal, the right to compel the release of employee investigation documents, as these records were exceptions to the Louisiana Public Records Act which the employee did not need to request through a public records request.

Virginia Federal Judge Allows Claim by Principal with Asthma Allegedly Moved to School with Environmental Hazards to Proceed

A longtime principal was diagnosed with respiratory issues sought to be reassigned to an open position in a different environment as an accommodation for her illness. The district provided an air purifier but did not allow transfer to an open position at a newer building with better air quality. The district court concluded that the complaint, as amended, sufficiently stated a claim for relief under the Americans with Disability Act.

Indiana School Corporations Prohibited from Stating Takings Clause Claim Against State

Various Indiana school corporations filed suit seeking to challenge, as an unlawful taking under the Fourteenth Amendment, a state law that requires unused school buildings to be made available to charter schools for $1. The Court of Appeals affirmed dismissal, stating that public school corporations—political subdivisions—are unable to bring takings claims against the sovereign, the state, which created the political subdivisions.

Ninth Circuit Hears Argument on Challenge to Idaho's Transgender Athlete Ban

The lawsuit concerns transgender athletes and challenges created by the State of Idaho's ban preventing them from participating in school sports in a manner that aligns with their gender identities. Lindsay Hecox, a student at Boise State, and a Boise High School student, named as Jane Doe, who is no longer involved in the case, filed the lawsuit. Much of the oral argument challenged whether the lawsuit was moot. The ninth circuit covers Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

Ohio School Corporations Awaiting Decision on Challenge to School Voucher Program
The filed lawsuit states that payments to private school corporations violates the Ohio constitution's requirement to fund public education.

Pending U.S. Supreme Court Petitions to Watch:

- **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.
- **Cleveland County, North Carolina v. Conner**: (1) Whether the Fair Labor Standards Act allows an employee, who has been paid at least the required minimum wage and overtime pay at a rate that is at least one and one-half times her regular rate, to sue her employer for and recover unpaid straight-time wages earned in weeks when she worked overtime; and (2) whether Skidmore v. Swift & Co. allows courts to independently evaluate an agency's non-binding interpretation of a statute.
- **University of Toledo v. Wamer**: Whether schools can be held liable under Title IX of the Educational Amendments Act of 1972 for sexual harassment that ceased before they were notified that it happened.
- **Bronwyn Randel, Petitioner v. Rabun County School District**: In a case involving 14th Amendment Due Process Clause claims regarding the non-renewal of a teacher, the question presented is: Does the existence of a state post-deprivation process preclude a procedural due process claim (a) only where a pre-deprivation process that satisfied constitutional standards would be impracticable, such as because the deprivation was a random or unauthorized act of an errant state official (the rule in ten circuits and under decisions of the highest courts in eight states), or (b) in any case in which, even though compliance with constitutional standards in a pre-deprivation process was practicable, the state post-deprivation process provides some form of remedy for the constitutional deficiency of the pre-deprivation process (the longstanding rule in the Eleventh Circuit)?

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