



Court Report

Education Law News You Can Use

Department of Education's Office for Civil Rights (OCR) Releases Resources Regarding Title IX and Athletics

OCR provided school corporations with three new resources to support equal opportunity in athletics under Title IX of the Education Amendments of 1972. In particular, they provide guidance to [students and families](#), and general guidance for [K-12 programs](#), in addition to general guidance for [higher education programs](#).

Fifth Circuit (MS, LA, & TX) Dismisses Title VI Claim by White Student Alleging Bullying and Harassment Because of Political/Ideological Beliefs

A student filed suit alleging that he faced harassment and retaliation for his beliefs, for example in response to wearing a "Maker America Great Again" hat while receiving his middle school diploma, from staff and other students. But since the bulk of the complaint does not allege discrimination based on race, and the allegations that do center on race are not severe and too infrequent, the district court dismissed the complaint and the Fifth Circuit affirmed.

Ohio Considering Law That Expands Vouchers to All Families

Under proposed legislation, homeschool credits would increase from \$250 to \$2,000, and while voucher amounts would remain the same, geographic and income eligibility restrictions for families would be removed.

Catholic Diocese Responds to Indiana State Senator's Concerns Regarding Private Catholic School

In a public letter posted on social media, Indiana Senator Ryan Mishler expressed concerns about voucher monies going to private schools after recently encountering mistreatment and bullying of students in an unnamed Catholic school in Indiana. The Catholic Diocese responded and refuted these concerns.

Seventh Circuit (IN, WI, & IL) Panel Suggests in Oral Argument that Transgender Cases are Headed to the U.S. Supreme Court

During oral argument in a case with national implications on the rights of transgender students to access restrooms, locker rooms and showers, a panel of judges suggested that either that case or the Eleventh Circuit decision in *Adams v. School Board of St. Johns County, Florida*, is headed to the U.S. Supreme Court since a conflict exists among the U.S. Courts of Appeals.

Fourth Grade Student's Derogatory Comments About Teacher's Perceived Sexual Orientation at New York School Was Insufficient to Create Hostile Work Environment

In analyzing the teacher's Title VII hostile work environment claims, the amended complaint alleged "that over a seven-month period, [the student] called [the teacher] gay, threatened to "slap the gay out of [him]," called him a "gay n****r," slapped him in the face with an article of clothing, and wrote on an assignment "I am tired of this f***** work, gay f*****"). But this was not enough to show a Title VII hostile work environment particularly because the teacher could issue consequences to the student.

Payout expected for schools following Juul lawsuit settlement

Schools throughout the country, and in Indiana in particular, are looking to receive funds by way of the national settlement in litigation with Juul.

Pending U.S. Supreme Court Petitions to Watch:

- **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. **Petition granted.**
- **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. **Petition granted.**
- **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, covering Alabama, Florida and Georgia)?
- **Stacey A. Kincaid, Sheriff, Fairfax County, Virginia, Petitioner v. Kesha T. Williams**: Whether the diagnosis of gender dysphoria, found in the DSM-5, is excluded from the ADA’s definition of disability under 42 U.S.C. § 12211(b).
- **City of Ocala, Florida v. Rojas**: Whether psychic or emotional offense allegedly caused by observation of religious messages is an injury sufficient to confer standing under Article III of the Constitution, including where the offended party deliberately seeks out the exposure in question.

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