



Court Report

Education Law News You Can Use

Seventh Circuit (IN, IL, WI) Rules for Transgender Bathroom Access and Invites Guidance from the U.S. Supreme Court

In two parallel cases consolidated for appeal, three transgender boys (one middle-schooler and two high-schoolers), sought to use the boys' bathroom, but their respective school districts required them to use the girls' bathroom consistent with their biological sex. The students claimed sex discrimination under Title IX of Education Amendments of 1972 and the Equal Protection Clause of Fourteenth Amendment, requesting preliminary injunctions against the schools for the access denial. The United States Court of Appeals for the Seventh Circuit upheld the injunctions, in effect giving the students the desired bathroom access.

The Seventh Circuit reached its decision chiefly in sticking to controlling precedent, a prior Seventh Circuit case from 2017 that is "almost indistinguishable" in facts and legal issues. But the opinion highlighted a conflicting legal landscape across the nation on the issue. An unsettled question emerges as to what extent the U.S. Supreme Court's intervening reasoning in *Bostock v. Clayton County* (2020) — which held that Title VII sex discrimination encompasses gender identity — extends to Title IX sex discrimination. Federal appellate courts that have addressed the issue have reached differing conclusions. The Seventh Circuit expressed that it "assume[s] that at some point the Supreme Court will step in with more guidance than it has furnished so far."

Nation's First Publicly Funded Religious Charter School Challenged in Court

In an update from a story shared in the June 19 edition, the online Catholic charter school approved by the Oklahoma Statewide Virtual Charter School Board has been challenged in Oklahoma state court by the ACLU on behalf of Oklahoma residents. The lawsuit seeks an injunction blocking taxpayer funds from going to the school.

USDOE Releases Guidance Pressuring States to Step Up IDEA Compliance

The U.S. Department of Education's Office of Special Education Programs released updated policy guidance outlining steps states should take to enhance monitoring and oversight of school districts for compliance with the Individuals with Disabilities Education Act. Specifically, the guidance indicates that states should monitor school districts at least once every six years. States must also respond quickly to credible concerns that a school is not adequately serving students under the IDEA, even if those concerns arise from outside of a formal complaint process.

Seventh Circuit (IN, IL, WI) (Kluge) Vacates Ruling in Favor of School District that Fired Teacher over Teacher's Refusal to Comply with Student Pronoun Rule

In April, the United States Court of Appeals for the Seventh Circuit concluded that an Indiana school district did not have to accommodate a teacher's religious objection to school policy of referring to transgender students by their preferred names and pronouns as recognized in the school database, affirming summary judgment against the teacher on his Title VII religious discrimination claim (see discussion in April 17 edition). Within three months after the Seventh Circuit's opinion, the United States Supreme Court's new opinion in *Groff v. DeJoy* clarified the Title VII standard for religious accommodations. As the governing standard for the teacher's claims, the Seventh Circuit vacated its prior opinion and remanded the case back to the district to apply the clarified standard.

Eighth Circuit (AR, IA, MN, MO, NE, ND, SD) Rules that Parent's Disagreement with School District's Disability Services Did Not Rise to Disability Discrimination

A kindergarten student with vision impairment, described by her mother as “very accident prone,” suffered a series of minor injuries throughout the opening weeks of the school year. The mother and school district agreed to implement a Section 504 Plan, including services such as close teacher supervision and a “buddy” for errands and bathroom breaks. The student suffered additional injuries after implementation of the 504 Plan, leading to revisions to the 504 Plan. By late fall, the student started experience staring-spell seizures. Her parents alleged the series of injuries suffered at school throughout the fall caused her seizures, asserting disability discrimination claims under Title II of Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The United States Court of Appeals for the Eighth Circuit affirmed summary judgment for the school district. The court reasoned that the school district’s consistent efforts to accommodate the student’s vision issues with accompaniments, monitoring, and revisions to the 504 Plan did not substantial depart from accepted professional standards.

New Jersey School District Agrees to \$9.1M Settlement over Student Suicide

In 2017, a New Jersey middle school student took her own life after repeated bullying by other students via text messages. Her parents sued the school district, alleging that administrators were routinely contacted about the bullying but the school failed to adequately respond to the complaints and bullying in general. The suit ended with the school district agreeing to pay \$9.1 million to the parents. The student’s suicide also led to new legislation in New Jersey creating response deadlines and other investigative obligations if a parent files a complaint.

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