



Court Report

Education Law News You Can Use

Eighth Circuit (AR, IA, MN, MO, NE, ND, SD) Blocks Iowa School District's Gender Support Policy as Unconstitutionally Vague

An Iowa school district adopted a comprehensive policy addressing issues surrounding student gender identity. Among other directives, the policy could subject a student to discipline for an intentional or persistent refusal "to respect a student's gender identity." A group of anonymous parents challenged the policy, with a subgroup of parents claiming the policy violated their children's First Amendment rights. The United States Court of Appeals for the Eighth Circuit concluded that the parent group was likely to succeed on its claim that the "respect" directive in the policy was unconstitutionally vague. The court reasoned that because the policy does not define or limit the term "respect," the policy could reach any speech about gender identity that school administrator deems 'disrespectful' of another student's gender identity, including for example expressing certain opinions about gender identity in classroom discussion. The Eighth Circuit remanded the case back to the district court with directions to grant a preliminary injunction against enforcing the "respect" directive in the policy.

California Federal Court Enjoins Gender Identity Confidentiality Policy

A southern California school district adopted a policy that prevented faculty from disclosing a student's newly expressed gender identity to parents without the student's consent. Two teachers sought a preliminary injunction against the school district taking any adverse employment action against in the event they violate the policy. The United States District Court for the Southern District of California enjoined the policy. The court found that the teachers were likely to succeed on the merits of a claim that the policy violated their First Amendment right to the free exercise of religion. The teachers held similar sincere religious beliefs that God forbids deceit and that God created the parent-child bond with the intent that parents have ultimate right to raise their children. As the policy requires withholding information from parents that the parents could not otherwise obtain from the school district, the court reasoned that aspect infringes on the teachers' free exercise of their religious beliefs. The court further found that the policy failed strict scrutiny as not narrowly tailored to compelling governmental interest.

Seventh Circuit (IL, IN, WI) Rejects Terminated Principal's Claim Over Rehiring Difficulties

A Chicago public school district terminated an interim elementary school principal for violations of district policies, and designated the terminated principal as 'Do Not Hire' within the district. The

school board discussed the termination at a community meeting, including a comment that the firing was “about integrity” which reached local media. The terminated principal sued the school board, alleging that she was deprived of her liberty interest in pursuing her occupation without due process. She further asserted that the stigmatizing public statements about her termination effectively prevented her from being rehired as a school administrator. The United States Court of Appeals for the Seventh Circuit rejected the assertions, affirming the district court’s grant of summary judgment for the school board. The court reasoned that the record reflected that the terminated principal had conducted a rather brief and narrow job search after the termination, insufficient for showing that it was virtually impossible to find work as a school administrator. Additionally, the record did not show that her difficulties in obtaining employment were tied to the board’s public statements.

Fifth Circuit (LA, MS, TX) Revives Black Female Administrator’s Disparate Treatment Claim Over Forced Out-of-Pocket Expenses for Leadership Program

A black female school administrator in Mississippi sought to attend a training program for prospective superintendents. The school district which employs the administrator had previously paid the program’s fees for other similarly situated district employees, who were white males. But this time, the school district refused to pay for the program fees for the administrator. The administrator then sued the school district under Title VII of the Civil Rights, pleading a disparate treatment claim that requires the showing of an adverse employment action taken against her because of a protected status. The United States Court of Appeals for the Fifth Circuit concluded that the administrator plausibly stated a Title VII claim. The court reasoned in part that the program’s expenditure (approximately \$2,000 out-of-pocket for the administrator) was more than a de minimis injury inflicted by the school district’s adverse action.

USDA Expands Access to School Breakfast and Lunch

The U.S. Department of Agriculture announced that it is expanding the availability of the Community Eligibility Provision (CEP), which allows schools to provide meals at no cost to all students without requiring families to apply for free-and-reduced-price meals. The final rule lowers the threshold down to 25% from 40% of students who had to live in households participating in certain income-based federal assistance programs for a school to be eligible for the CEP.

Black Texas High School Student Suspended Over Hairstyle Sues Governor and State AG

Officials at a Texas high school suspended a Black student over his dreadlocks, claiming the hairstyle violated the district’s dress code. The student’s family has filed suit in federal court against Texas Governor Gregg Abbott and Texas Attorney General Ken Paxton for allegedly not enforcing a state law, the CROWN Act (“Create a Respectful and Open World for Natural Hair”), which bans race-related hair discrimination. Texas is one of 24 states that have enacted a version of this law.

Pending U.S. Supreme Court Petitions to Watch:

- **Lindke v. Freed** (linked with O’Connor-Ratcliff v. Garnier) – Whether a public official’s social media activity can constitute state action only if the official used the account to perform a governmental duty or under the authority of his or her office. (In O’Connor-Ratcliff specifically, two school board members blocked parents from their respective personal social media pages where they would sometimes discuss school matters with the public.)
- **Coalition for TJ v. Fairfax County School Board** – Whether a school district violated the Equal Protection Clause in revising the admissions policy for a highly selective magnet high school to select a certain percentage of its incoming class from each of the district’s constituent middle schools and the remaining allocation from a holistic review of a standardized application, allegedly in furtherance of a racial balancing goal.

- **Devillier v. Texas** - Whether a person whose property is taken by the government without compensation may seek redress under the Takings Clause of the Fifth Amendment. **Petition granted.**
- **O'Handley v. Weber** – Whether the government speech doctrine empowers state officials to tell a social media platform to remove political speech that the state deems false or misleading.
- **Muldrow v. City of St. Louis** - Whether Title VII of the Civil Rights Act of 1964 prohibits discrimination in transfer decisions absent a separate court determination that the transfer decision caused a significant disadvantage.

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