



# Court Report

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## **U.S. Supreme Court Declines to Hear School District's Transgender Restroom Case**

The U.S. Supreme Court denied the petition for a writ of certiorari without comment or recorded dissent in *Metropolitan School District of Martinsville v. A.C.*, which presented the question of whether Title IX or the Equal Protection Clause dictates a single national policy prohibiting local schools from maintaining separate bathrooms based on a students' biological sex. While a split of authority thus remains across the federal circuit courts of appeals, the forthcoming finalized Title IX regulations would provide that schools may not exclude transgender students from restrooms that correspond with their gender identity.

## **U.S. Supreme Court Signals Interest in K-12 Admission Case**

While the Court denied review of *A.C.*, some commentators predict that the Court will take up review of *Coalition for T.J. v. Fairfax County School Board* (see below), which centers on the admissions criteria of a selective magnet school. The prediction stems from statistics surrounding the frequency in which cases that are relisted multiple times for reconsideration at the justices' conferences are eventually granted review.

## **Fifth Circuit (LA, MS, TX) Blocks Texas from Enforcing Book Rating Law**

A new Texas law, the Restricting Explicit and Adult-Designated Educational Resources (READER) Act, requires schoolbook vendors to issue content ratings for their materials based on depictions or references to sex as condition of selling books to public schools. Bookstores and related trade associations sought injunctive relief against the law, claiming that the law unconstitutionally compels speech in violation of the First Amendment. On appeal, the U.S. Court of Appeals for the Fifth Circuit agreed, affirming the grant of a preliminary injunction and concluding that the law coerced speech, as the ratings are required to be submitted to an educational agency that may adjust the ratings and nevertheless attribute the ratings to the vendor.

## **Florida Federal Judge Rules that Parents and Publishers Stated First Amendment Claim for School Board's Book Removal Actions**

A Florida county school board moved to dismiss First Amendment and Equal Protection claims against it for its decisions to remove or restrict certain books from school libraries. The court concluded that the complaint adequately pled a First Amendment claim, as school officials cannot remove books from school libraries solely based on disagreement with the content or views expressed in the materials. However, the court dismissed the Equal Protection claim that the removals had greater impact on non-white and LGBTQ students and authors, reasoning that the allegations required too many inferences to conclude that the removal of a book about a particular subject constitutes intentional discrimination against an individual in a particular protected class.

## **South Carolina High School Football Coach Turned Athletic Director Not a Public Official for Defamation Purposes**

The Supreme Court of South Carolina held that a former high school football coach who had also been an athletic director was not a public official, such that actual malice would be required to prevail on a defamation claim. The coach had implemented an offensive strategy that never punted the football, which at times led to lopsided defeats. The coach brought a defamation claim against the school district following his reassignment

to middle school guidance counselor, which he claimed was humiliating. The school district argued that the former coach was a public official for defamation purposes on account of his public employment and array of media attention regarding his unorthodox coaching strategies.

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

- **Metropolitan School District of Martinsville v. A.C., a minor child by his next friend, mother, and legal guardian, M.C.** – Whether Title IX or the Equal Protection Clause dictate a single national policy that prohibits local schools from maintaining separate bathrooms based on students’ biological sex. **Petition denied.**
- **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.
- **Speech First, Inc. v. Sands** – Whether university bias-response teams - official entities that solicit, track, and investigate reports of bias; ask to meet with perpetrators; and threaten to refer students for formal discipline - objectively chill students’ speech in violation of the First Amendment.
- **Molina v. Book** – Whether: (1) words printed on clothing are pure speech presumptively entitled to First Amendment protection or whether they are protected only if they convey a “particularized message;” and (2) whether, in light of important new historical evidence, the Court should reconsider the doctrine of qualified immunity.
- **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.
- **Dutra v. Jackson** – Whether U.S. Supreme Court precedents are the only source of clearly established law for purposes of qualified immunity (instead of a federal circuit court’s precedent).
- **Hopman v. Union Pacific Railroad** – Whether the Americans with Disabilities Act’s requirements are limited to accommodations that enable an employee to perform the essential functions of a position.

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