



Court Report

Education Law News You Can Use

U.S. Supreme Court Denies Review of Case on Magnet School's Admissions Plan

A highly selective magnet high school in the D.C. metro area revised its admissions policy 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. Against an Equal Protection challenge, a divided panel of U.S. Court of Appeals for the Fourth Circuit upheld the policy, reasoning in part that the policy did not have a disparate impact on Asian-American students, as those students had greater success in admission than any other racial or ethnic group. The challengers petitioned for the U.S. Supreme Court for review.

Despite predictions from commentators that the Court would grant the petition due to multiple re-listings and in light of the Court's recent decision in *Students for Fair Admissions v. Harvard* (holding that race-based affirmative action programs in college admissions processes violate the Equal Protection Clause), the Court denied review, allowing the policy to stand. Justice Alito, joined by Justice Thomas, dissented from the denial, chiding the Fourth Circuit's reasoning as "flagrantly wrong" and "indefensible."

First Circuit (ME, MA, NH, PR, RI): Resident Lacks Standing to Challenge School Board Meeting Public Comment Policy

A Maine public school district's policy on public participation in school board meetings did not allow complaints or allegations concerning district employees. A local resident who was escorted out of meetings in response to his comments criticizing certain teachers, challenged the board's policy on First Amendment grounds. On appeal from the district court's denial of his request for a temporary restraining order, the U.S. Court of Appeals for the First Circuit vacated the denial and remanded back to the district court, concluding that the resident lacked standing to seek injunctive relief because he had not sufficiently alleged that he intended to engage in conduct that would violate the board's policy on speech.

Ninth Circuit (AK, CA, HI, ID, MT, NV, OR, WA): Proposed IEP Failed to Offer Meaningful Benefit for Student with Hearing Loss

A Los Angeles student was born with profound hearing loss in both ears, but received cochlear implants at two years old which allowed her to enjoy full abilities to listen and speak. Approaching her third birthday, her parents met with the school district to develop an IEP. The school district proposed in part that the student would receive speech therapy 1-10x/week for a total of 30 minutes/week and she would be with hearing peers for 30 minutes/day while at recess. The parents rejected this proposal. Following the proper procedural steps through administrative and judicial channels, the U.S. Court of Appeals for the Ninth Circuit concluded that the school district violated the Individuals with Disabilities Education Act (IDEA) in a few ways. For one, the proposal insufficiently described the frequency and duration of services (e.g., a single 30-minute session vs. 10 three-minute sessions). The proposal also denied the student a free appropriate public education because it did not provide enough interaction with typical hearing peers for the student to make meaningful progress in spoken language.

Ohio Federal Court: Teacher's Horseplay Likely Amounts to Fourth Amendment Seizure

An Ohio student with cerebral palsy sought a preliminary injunction preventing his classroom teacher from teaching at his school based on the teacher's classroom horseplay and other inappropriate conduct. Specifically, the student testified that on multiple occasions the teacher had pushed a table into his stomach and pushed him out of his chair. A video from a classmate depicted the plaintiff-student lying on the floor with the teacher standing over him, yelling that he is "tired of getting calls about your crazy ass." The student alleged that these instances violated his Fourth Amendment rights. The U.S. District Court for the Southern District of Ohio determined that a Fourth Amendment seizure likely occurred. The court explained that although school officials are generally justified in using some form of restraint to prevent student harm, the evidence showed that the restraints were not in response to any disruptive behavior and thus were unjustified.

Pending U.S. Supreme Court Petitions to Watch:

- **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. **Petition granted, but claims dismissed as moot (March 4, 2024).** [See the Order \(page 7\).](#)
- **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. **Petition denied (Feb. 20, 2024).**
- **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. **Petition denied (Feb. 20, 2024).**
- **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. **Petition denied (Feb. 20, 2024).**
- **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).

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