



Court Report

Education Law News You Can Use

December 9, 2024

U.S. Supreme Court Denies Review of Race-Neutral Admissions Criteria Case

The Supreme Court denied the petition for writ of certiorari in *Boston Parent Coalition for Academic Excellence v. School Committee for the City of Boston*. In that case, Boston Public Schools established a temporary admissions plan for three selective schools for the 2021-22 academic year which first awarded admission to the top 20% of GPAs citywide first, and the remaining admittees were selected based in part on geographic and socioeconomic metrics. An advocacy group challenged the admissions criteria as discriminatory under the Equal Protection Clause of the Fourteenth Amendment. The United States Court of Appeals for the First Circuit previously concluded that the claim lacked merit, finding no evidence that geography, family income, and GPA were unreasonable selection criteria for the admissions program.

Justice Gorsuch issued a statement respecting the denial of the petition, noting that as Boston had since replaced the challenged admissions policy, the need for the Court to review the case had “greatly diminish[ed].” Justice Alito, joined by Justice Thomas, dissented from the denial of certiorari. In Justice Alito’s view, the Boston School Committee “put race front and center when it came time to vote on” the admissions criteria, and the First Circuit’s “dangerously distorted view of disparate impact” (as circumstantial evidence of discriminatory intent) amounted to a “glaring constitutional error that threatens to perpetuate race-based affirmative action in defiance of [the Court’s 2023 opinion in] *Students for Fair Admissions*.” Justice Gorsuch, although not joining in the dissent, expressed in his statement that he shared in the “significant concerns” that Justice Alito raised.

U.S. Supreme Court Denies Review of Case Challenging School Gender Policies

The Supreme Court denied the petition for writ of certiorari in *Parents Protecting Our Children. UA v. Eau Claire Area School District*. In that case, a Wisconsin school district promulgated guidelines for schools designed “to address the needs of transgender, nonbinary, and/or gender non-conforming students,” which included a gender support plan that contemplated not involving parents in some circumstances. A parent advocacy group challenged the guidance and plan as unconstitutional under Due Process Clause of the Fourteenth Amendment and the Free Exercise Clause of the First Amendment. The U.S. Court of Appeals for the Seventh Circuit affirmed the district court’s dismissal of the challenge for lack of Article III standing, reasoning that the parent group failed to allege that any particular parent had experienced an actual or imminent injury attributable to the guidance or support plan.

Justice Alito, joined by Justice Thomas, dissented from the denial of certiorari. Expressing disagreement with the Seventh Circuit’s conclusion on standing, Justice Alito wrote that the challenged policy “specifically encourage[d] school personnel to keep parents in the dark about the ‘identities’ of their children, especially if the school believes that the parents would not support what the school thinks is appropriate,” and in that vein, “the parents’ fear that the school district might make decisions for their children without their knowledge and consent is not ‘speculative.’”

[U.S. Supreme Court Hears Argument on State Law Banning Gender-Affirming Medical Care for Youth](#)

The Supreme Court recently heard oral arguments in *United States v. Skrmetti*, a case presenting a Fourteenth Amendment Equal Protection challenge to a Tennessee law prohibiting gender-affirming medical treatments (e.g., puberty blockers and hormone therapy) for transgender minors seeking to transition. During arguments, the Court's conservative majority appeared inclined to uphold the ban, emphasizing deference to elected representatives on a policy matter rather than to the judiciary. Conversely, the liberal justices expressed concerns over potential discrimination. While the challenged law primarily pertains to medical treatments, the discussion also touched on related issues in ongoing national debate, including transgender participation in interscholastic athletics and how schools handle social transitions.

[U.S. Supreme Court Hears Argument on FDA's Denial of Flavored Vape Products](#)

The Supreme Court heard oral arguments in *FDA v. Wages and White Lion Investments, LLC*, a case examining the Food and Drug Administration's denial of applications to market flavored e-cigarette products. The FDA's rejections were based on concerns about the appeal of such products to minors and insufficient evidence demonstrating public health benefits. At argument, justices across the ideological spectrum appeared skeptical of the vaping companies' claims that the FDA had shifted its approval criteria without proper notice. Justice Kagan questioned the alleged surprise in the FDA's stance, noting the agency's consistent concerns about youth vaping. Justice Kavanaugh highlighted that the companies have the option to reapply, suggesting limited grounds for judicial intervention.

[Ohio Enacts Law Restricting Transgender Student Bathroom Access](#)

Ohio Governor Mike DeWine signed into law the Protect All Students Act, which mandates that all K-12 schools and higher education institutions (public and private) must designate multi-occupancy bathroom facilities for exclusive use by either the male or female biological sex (but not both). While single-occupancy and family facilities remain permissible, the law includes exceptions for school employees (entering pursuant to job duties), emergency situations, and individuals assisting young children or those with disabilities. Ohio becomes the 14th state to enact a bathroom ban for transgender students in K-12 settings.

[U.S. Supreme Court Petitions to Watch:](#)

- [Boston Parent Coalition v. School Committee for Boston](#) – Whether an Equal Protection challenge to a facially race-neutral admission criteria is barred because members of the racial groups targeted for decline still receive a balance share of admissions offers. **Petition denied.**
- [Parents Protecting Our Children, UA v. Eau Claire Area School District](#) – Whether parents subject to a school district's policy regarding parental decision-making authority over a major health-related decision have standing to challenge the policy. **Petition denied.**
- [Mahmoud v. Taylor](#) – Whether public schools burden parents' religious exercise by compelling elementary school children to participate in instruction on gender and sexuality against their parents' religious convictions without notice or opportunity to opt out.
- [West Virginia v. B.P.J, by next friend and mother, Heather Jackson](#) – Whether Title IX or the Equal Protection Clause prevents a state from designating school sports teams based on biological sex determined at birth.
- [A.J.T. v. Osseo Area Schools, Independent School District No. 279](#) – Whether the Americans with Disabilities Act requires children with disabilities to satisfy a uniquely stringent "bad faith or gross misjudgment" standard when seeking relief for discrimination relating to their education.
- [Little v. Hecox](#) – Whether laws that seek to protect women's and girls' sports by limiting participation based on sex violate the Equal Protection Clause.
- [St. Isidore of Seville Catholic Virtual School v. Drummond](#) (linked with [Oklahoma Statewide Charter School Board v. Drummond](#)) – Whether it violates the First Amendment's protection of religious freedom for a state to exclude religious schools from its charter school program just because the school is religious.

U.S. Supreme Court Cases to Watch:

- [*FDA v. Wages and White Lion Investments, LLC*](#) – Whether the FDA’s denial of an application for authorization to market new e-cigarette products (including candy and fruit flavors) was arbitrary and capricious. (Argued 12/2.)
- [*U.S. v. Skrametti*](#) – Whether Tennessee Senate Bill 1, which prohibits medical treatments intended to allow a minor to identify with a purported identity inconsistent with the minor’s sex, violates the Equal Protection Clause (a related petition in [*L.W. v. Skrametti*](#) asks whether this same bill violates the fundamental right of parents to make decisions concerning the medical care of their children). (Argued 12/4.)
- [*Free Speech Coalition, Inc. v. Paxton*](#) – Whether strict scrutiny or rational basis review applies to a Texas law that restrict minors’ access to sexual material but significantly burdens adults’ access to protected speech. (Set for argument 1/15.)
- [*FDA v. R.J. Reynolds Vapor Co.*](#) – Whether a tobacco product manufacturer may file a judicial review petition in a circuit outside of the District of Columbia if the manufacturer is not located in that circuit but is joined by a seller of their products located in that circuit. (Set for argument 1/21.)
- [*Lackey v. Stinnie*](#) – (1) Whether a party must obtain a ruling that conclusively decides the merits in its favor, as opposed to merely predicting a likelihood of later success, to prevail on the merits under 42 U.S.C. § 1988; and (2) whether a party must obtain an enduring change in the parties’ legal relationship from a judicial act, as opposed to a non-judicial event that moots the case, to prevail under Section 1988.
- [*Stanley v. City of Sanford*](#) – Whether, under the Americans with Disabilities Act, a former employee — who was qualified to perform her job and who earned post-employment benefits while employed — loses her right to sue over discrimination with respect to those benefits solely because she no longer holds her job.
- [*Wisconsin Bell, Inc. v. US ex rel. Heath*](#) – Whether reimbursement requests submitted to the Federal Communications Commission’s E-Rate program are “claims” under the False Claims Act.
- [*E.M.D. Sales, Inc. v. Carrera*](#) – Whether the burden of proof that employers must satisfy to demonstrate the applicability of a Fair Labor Standards Act exemption is a mere preponderance of the evidence or clear and convincing evidence.
- [*Williams v. Washington*](#) – Whether a plaintiff must first exhaust state administrative remedies before bringing a claim under Section 1983 claim in state court.

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