



Court Report

Education Law News You Can Use

May 19, 2025

Parents and Students Sue ED Over OCR Cutbacks

A coalition of parents, students and an advocacy organization has sued the ED in federal court in Washington, D.C., alleging that the department has unlawfully “decimated” the Office for Civil Rights (OCR) and abandoned its legal duty to investigate discrimination complaints, in violation of the Administrative Procedure Act. Plaintiffs include students facing racial harassment, disability-based abuse and anti-LGBTQ bullying, and claim that their OCR complaints — some near resolution — have since been stalled or abandoned, as more than half of OCR regional offices have closed and nearly half the workforce has been placed on administrative leave. Plaintiffs seek a preliminary injunction to restore OCR’s staffing and capacity to process complaints.

New York Federal Court Blocks ED from Cutting off COVID Relief Spending Extensions

In late March, the U.S. Department of Education (ED) canceled spending extensions for Elementary and Secondary School Emergency Relief (ESSER) funds, which were part of COVID-related economic stimulus plans. Sixteen states and the District of Columbia sued ED in the U.S. District Court for the Southern District of New York, challenging the “drastic and abrupt” cancellation as an “arbitrary and capricious” action in violation of the Administrative Procedures Act. The court has issued a preliminary injunction against enforcement of the directive, prohibiting ED from setting new deadlines for obligating funds.

Sixth Circuit (KY, MI, OH, TN) Affirms School’s Actions on Removal of “Come and Take It” Hat

A third-grade student at a Michigan elementary school, participating in a classic school “Hat Day” event, wore a baseball cap featuring an AR-15 rifle and the phrase “Come and Take It.” School administrators directed the student to remove the hat, citing a dress code prohibiting “violence themes.” The student’s father sued school officials, claiming a First Amendment violation. The U.S. District Court for the Eastern District of Michigan granted summary judgment for the school officials, holding that the dress code restriction was viewpoint-neutral and reasonably related to maintaining order, particularly given the proximity of a 2021 mass shooting at nearby Oxford High School and the presence of transfer students from that district who were receiving trauma counseling. The U.S. Court of Appeals for the Sixth Circuit affirmed the district court’s order in full, concluding that considering the elementary school’s special circumstances — namely transfer students from a traumatized district and elementary age of classmates — and the hat’s provocative message, school officials made a reasonable forecast of substantial disruption to the school’s educational environment.

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Oklahoma State Standards Require Students to Identify 2020 Election “Discrepancies”

The state of Oklahoma’s social studies’ standards now include instructions for students to “identify discrepancies in 2020 elections results by looking at graphs and other information, including the sudden halting of ballot-counting in select cities and in key battleground states, the security risks of mail-in balloting, sudden batch dumps, an unforeseen record number of voters and the unprecedented contradiction of ‘bellwether county’ trends.”

Massachusetts Federal Court Dismisses First Amendment Challenge to Teacher’s Firing Over Gender Identity Disclosure

A Massachusetts middle school teacher previously had private conversations with an 11-year-old student, where the student expressed gender identity questioning. The teacher informed the student’s mother, and the mother requested no further discussions on gender identity issues but asked the teacher to continue working with the student outside of school of hours. About a month later, the student emailed school officials (including the teacher) indicating a “genderqueer” identity with a new name and alternate pronouns. School administrators instructed staff to honor this request for the student, but to continue to use biological pronouns in communications with the parents. The next month, the teacher, during a conversation outside of school with the student’s father, informed the father of the email. The student subsequently reported that the teacher had disclosed the contents of the email to the parents. After an internal investigation, school officials terminated the teacher. The teacher asserted a First Amendment violation for retaliation, but the U.S. District Court for the District of Massachusetts dismissed the claim. In applying the balancing test for public employee speech, the court found that schools have a compelling interest in protecting the psychological well-being of minors, and in furtherance of that interest, schools may foster a space for students to express gender identity without parental backlash. The court reasoned that this strong interest outweighed the teacher’s speech interests, which were not made in a public setting and were not limited to school district policies in general, but rather concerned a situation specific to one student.

U.S. Supreme Court Petitions to Watch:

- *L.M. v. Town of Middleborough* – Whether school officials may presume substantial disruption from a student’s passive ideological speech (specifically, wearing a shirt that reads, “There are only two genders”) merely because the speech relates to matters of personal identity.
- *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.
- *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.
- *Petersen v. Doe* – Whether Arizona’s Save Women’s Sports Act, which excludes biological males from girls’ and women’s sports teams, violates the Equal Protection Clause.
- *Warner v. Hillsborough County School Board* – Whether, under 28 U.S.C. § 1654, children must hire an attorney to pursue their claims in federal court, or instead their parents may litigate pro se on their behalf.
- *Montana v. Planned Parenthood of Montana* – Whether a parent’s fundamental right to direct the care and custody of her children includes a right to know and participate in decisions concerning her child’s medical care, including a minor’s decision to seek an abortion.

U.S. Supreme Court Cases to Watch:

- *St. Isidore of Seville Catholic Virtual School v. Drummond* (consolidated 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.
- *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.
- *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.
- *FCC v. Consumers’ Research* (consolidated with *Schools, Health & Libraries Broadband Coalition v. Consumers’ Research*) – Whether Congress unconstitutionally delegated its legislative authority to the FCC by allowing it to determine and administer mandatory contributions to the Universal Service Fund (which provides funding to support internet services to schools and libraries), and whether the FCC improperly subdelegated its regulatory authority to a private company to manage the fund.
- *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.
- *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.
- *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.
- *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).