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Court Report

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Eleventh Circuit (AL, FL, GA): Sex Change Surgery Exclusion in Local Government Employee Health Plan Does Not Violate Title VII

A county sheriff's deputy in Georgia, a transgender woman, sued the county, alleging that the county's employee health plan violated Title VII by excluding coverage for "sex change" surgeries. The district court held that the exclusion was facially discriminatory because it denied a medically necessary procedure based on sex and enjoined the county from enforcing it. The U.S. Court of Appeals for the Eleventh Circuit, sitting en banc, reversed. The majority held that the plan did not discriminate on the basis of sex, transgender status, or sex stereotypes under Title VII. Drawing heavily on the Supreme Court's recent decision in *U.S. v. Skrmetti* (2025), the court reasoned that the exclusion applied equally to all employees regardless of sex: the plan did not cover "sex change" procedures for anyone — whether male or female. The court emphasized that Title VII forbids differential treatment "because of sex," but the policy merely excluded a category of medical procedures, not people of a particular sex or gender identity. The majority also rejected claims of discrimination based on transgender status or sex stereotyping, explaining that the exclusion was a neutral line between covered and non-covered treatments, not an expression of bias. In dissent, several judges argued that the ruling revives reasoning long rejected under Title VII — that exclusions for medical conditions unique to a protected group can be treated as neutral — and that *Bostock v. Clayton County* (2020) requires finding that denying coverage for gender-affirming care is discrimination "because of sex."

Seventh Circuit (IL, IN, WI) Pauses Transgender Restroom Case Pending Supreme Court Review in *West Virginia v. B.P.J.*

The U.S. Court of Appeals Seventh Circuit has paused further proceedings in *A.C. v. Metropolitan School District of Martinsville*, a case involving an Indiana transgender middle school student who challenged a school district policy restricting restroom use based on biological sex. In 2023, the court affirmed a preliminary injunction allowing the student to use the boys' restroom, holding that the policy likely violated Title IX and the Equal Protection Clause under circuit precedent. In a recent order, however, the court directed that the *A.C.* appeal will be held without oral argument until the Supreme Court has issued its opinion in *West Virginia v. B.P.J* (below), which will address laws restricting transgender students' participation in sex-segregated sports. The Seventh Circuit also asked the parties to file supplemental briefs shortly after the Supreme Court's decision, signaling that the Seventh Circuit may reconsider its own precedent in light of *Skrmetti* and the forthcoming *B.P.J.* ruling. The move, coupled with a similar order in *D.P. v. Mukwonago*, suggests the court is reassessing how Title IX applies to transgender student restroom and facilities access following the Supreme Court's recent shift in sex-discrimination jurisprudence.

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Ninth Circuit (AK, CA, HI, ID, MT, NV, OR, WA): California Charter School Home Study Programs Must Remain Secular

Parents of students enrolled in independent study programs at two California charter schools sued after the schools refused to purchase religious or faith-based curricular materials for home-based instruction. The parents argued that because they taught their children at home, the programs functioned more like private homeschooling, and that the state's refusal to fund their chosen sectarian materials violated their rights under the Free Exercise and Free Speech Clauses of the First Amendment. The U.S. Court of Appeals for the Ninth Circuit affirmed the district court's dismissal of the case. The court concluded that charter schools, including those offering home-based independent study, are part of California's public school system and thus may provide only secular instruction pursuant to state law requiring charters to be "nonsectarian in its programs." For the home study programs, although parents have flexibility in selecting materials, that flexibility remains bounded by the same curricular standards, teacher supervision, and assessment requirements that apply to all public schools. The court reasoned that these programs are "sufficiently public" such that the state may require the use of secular materials without violating the Free Exercise Clause. The court also rejected the parents' Free Speech claim, finding that curricular choices in public education constitute government speech, not private speech. Therefore, the schools were entitled to determine the content of the education they provide, even when parents assist in instruction at home.

Virginia Federal Court Finds Reinstatement of Confederate High School Name Violated Students' First Amendment Rights

A federal court in Virginia ruled that the Shenandoah County School Board violated students' First Amendment rights by reinstating the name "Stonewall Jackson High School." The plaintiffs, the Virginia NAACP and parents of two students, claimed the name forced their children to personally express support for Confederate ideals when participating in extracurricular activities as "Stonewall Jackson Generals." The court agreed, concluding that the name and its use in school athletics and events constituted compelled speech. The court found that the school's 2024 decision to restore the Confederate general's name (four years after removing it) carried unmistakable symbolic meaning endorsing the Confederacy and racial exclusion. Because students were required to wear "Generals" uniforms and compete under the name, the court held they were forced to serve as "instruments for communicating the School Board's message." The court rejected the School Board's defenses that the naming decision was protected government speech or a permissible exercise of school-sponsored speech, noting that no "pedagogical interest" justified the choice. Applying strict scrutiny, the court found no compelling government interest in reinstating the name and granted summary judgment for the plaintiffs.

Coalition of 16 States Sue Trump Administration Over "Gender Ideology" Restrictions on Sex Education Funding

A coalition of 16 states filed suit in Oregon federal court challenging new conditions the U.S. Department of Health and Human Services (HHS) placed on two long-standing sexual health education grant programs. The states allege that HHS, following a January 2025 executive order defining "sex" as binary and rejecting recognition of gender identity, informed grantees that they were "prohibited from including gender ideology in any program of service" funded through these programs. The complaint asserts that the directive forces states to either censor inclusive and medically accurate sexual health curricula or lose millions in federal funding. The states claim the new conditions contradict the governing statutes, which require program content to be medically accurate, complete, and culturally appropriate, and that HHS's actions are arbitrary, exceed its authority under the Administrative Procedure Act, and violate the Constitution's Spending Clause and separation of powers.

First Circuit (ME, MA, NH, PR, RI) Extends Stay to Parallel OCR Layoffs Case

Two former public-school students and the Victim Rights Law Center challenged the U.S. Department of Education's March 2025 reduction-in-force (RIF) as it applied to the Office for Civil Rights (OCR), arguing that cutting half of OCR's 550 employees and closing most regional offices made it impossible for the agency to fulfill its enforcement duties under Title VI, Title IX, and Section 504. The district court agreed and enjoined the layoffs as to OCR.

The U.S. Court of Appeals for the First Circuit has now stayed that injunction, finding the case indistinguishable from *McMahon v. New York*, a parallel challenge to the same Department-wide RIF. Because the Supreme Court already stayed the injunction in *McMahon* in July, the panel held that the same result should apply here, characterizing this case as a "subset" of *McMahon*. The ruling does not address the merits of the plaintiffs' claims but ensures that OCR layoffs, like the broader Department RIF, may proceed while the appeals continue.

U.S. Supreme Court Petitions to Watch:

- *Cambridge Christian School v. Florida High School Athletic Association* – Whether, in light of recent decisions, a state athletic association can deny two private Christian schools from offering a prayer over the loudspeaker before a football game—when it normally allows other types of messages from participating schools—just because the prayer is religious.

- *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.

- *Lee v. Poudre School District R-1* – Whether a public school district violates Fourteenth Amendment parental rights in the care and custody of their children by adopting and enforcing policies that permit staff to withhold information about a student's gender identity or social transition.

- *Estate of Te'Juan Johnson v. Rakes* – Whether and to what extent the Due Process Clause of the Fourteenth Amendment allows individuals to sue government officials for harm caused by third parties under the "state-created danger" doctrine. ***(Petition denied).***

U.S. Supreme Court Cases to Watch:

- *Chiles v. Salazar* – Whether Colorado's law prohibiting certain conversations between licensed counselors and minors regarding changes to a minor's sexual orientation or gender identity (i.e., "conversion therapy") violates the Free Speech Clause. ***(Set for argument 10/7).***

- *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. ***Suggestion of Mootness remains pending.***

- *Galette v. New Jersey Transit Corp.* (consolidated with *New Jersey Transit Corp. v. Colt*) – Whether a state-created public transportation agency is immune from lawsuits filed in other states where its buses or trains cause injuries.