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Court Report

Education Law News You Can Use

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Ninth Circuit (AK, CA, HI, ID, MT, NV, OR, WA) Revives First Grader's First Amendment Claim Over "Black Lives Matter" Drawing

In 2021, after a lesson about Dr. Martin Luther King, Jr., a California first grader drew a picture of figures of various skin tones and included the words "Blacks Lives Matter [sic] any life." The student gave the drawing to a Black classmate, who thanked her, but the classmate's mother later complained to the principal that her daughter was the only Black child in the grade to receive a message tied to her skin color. The principal took the drawing student aside and told her the drawing was inappropriate and racist, and instructed her not to give drawings to classmates. The student claimed she lost recess for two weeks. The student, through her mother, sued the principal and school district, alleging the principal's actions violated the student's First Amendment rights.

The U.S. Court of Appeals for the Ninth Circuit reversed the grant of summary judgment for the principal, reaffirming that even elementary students have speech rights in school under the Tinker standard. The court emphasized that while the students' very young ages allowed the school broader discretion, young age alone is not dispositive — the school still bears the burden of showing that its actions were reasonably undertaken to protect the safety and well-being of its students. On that question, the record cut both ways: some evidence suggested the school could reasonably believe the drawing invaded the classmate's right to be secure and let alone at school, but other evidence suggested the classmate was unaffected by the drawing.

Fifth Circuit (LA, MS, TX) Denies Qualified Immunity for Principal's Interruption of Teacher Prayer Event

A Houston-area junior high school teacher invited fellow staff members to join her for "See You at the Pole," an annual prayer event organized by the school's Fellowship of Christian Athletes club, before school began and before students arrived. The principal responded with an email to all staff stating the district policy prohibited employees from praying in the presence of students, and later responses from the principal indicated that a pre-arrival prayer at the scheduled time would be visible to some students anyway. When the teacher and a few colleagues proceeded to pray near the flagpole anyway, the principal stopped them. The teacher sued, alleging First Amendment violations. The principal moved to dismiss the claim, arguing he was entitled to qualified immunity.

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The U.S. Court of Appeals for the Fifth Circuit held that the district court properly denied qualified immunity. The court reasoned that the Supreme Court's decision in Kennedy v. Bremerton School District (2022) (post-game prayer case) was squarely governed and clearly established that school officials may not impose categorical, visibility-based restrictions on an employee's private religious expression outside official duties just because students may observe it.

Tenth Circuit (CO, KS, NM, OK, UT, WY) Denies Qualified Immunity on School Sex-Segregation Policy and Public Shaming of Family Over Title IX Complaint

An Oklahoma elementary school implemented a policy placing fifth-grade students into single-sex homerooms. One 11-year-old male student was assigned to an all-boys class taught by a male teacher. The student's parents soon complained that the teacher repeatedly singled him out for discipline, yelled at him and used sexually charged or derogatory comments, including homosexual slurs. After the parents raised concerns and sought to file a Title IX complaint, the school removed the student from the classroom, placed him on a limited schedule with minimal instruction, and later required him to return to the same classroom despite ongoing concerns. The parents also alleged that school officials blamed them publicly for changes to the school's sex-segregation policy and that a staff member confronted them and threatened them at a school event.

The U.S. Court of Appeals for the Tenth Circuit concluded that the parents plausibly alleged an Equal Protection violation based on the school's sex-segregation policy, emphasizing that the policy classified students by sex and was allegedly rooted in stereotypes about how boys and girls should be taught and disciplined. The court further concluded that school officials were not entitled to qualified immunity, as clearly established law (namely, the Supreme Court's landmark decision in Brown v. Board of Education) prohibited such segregated educational experiences. The court also affirmed denial of qualified immunity on a First Amendment retaliation claim, concluding that existing precedent clearly established that schools may not retaliate against families for filing complaints, even if the conduct took the form of public shaming or informal disciplinary actions.

Arkansas Federal Court Enters Permanent Injunction for Ten Commandments Display Law

The U.S. District Court for the Western District of Arkansas entered a permanent injunction against enforcement of an Arkansas law requiring public school classroom displays of a state-approved version of the Ten Commandments for several plaintiff school districts. The court had previously entered a preliminary injunction. In particulary pointed language in the 26-page ruling, the court reasoned that "the only reason to display a sacred, religious text in every classroom is to proselytize to children" and that the "State has said the quiet part out loud" by admitting the displays have no teaching, learning, or otherwise curricular integration.

Eleventh Circuit (AL, FL, GA) Denies Qualified Immunity to School District's Disregard of Racial Bias Settlement

A longtime Black educator alleged that a Georgia school district and its officials refused to comply with a settlement agreement resolving prior race discrimination claims, including commitments to revise hiring practices and improve recruitment of Black applicants. After the district allegedly failed to implement those obligations, the educator sued, claiming the officials deliberately interfered with the contract because of racial animus. The school officials moved to dismiss, asserting qualified immunity. The U.S. Court of Appeals for the Eleventh Circuit affirmed the denial of qualified immunity, holding that the complaint alleged a violation of clearly established law under § 1981. The court emphasized that public officials have long been on notice that they cannot impair contractual rights because of race, including by refusing to carry out contractual obligations.

Federal Judge Orders Texas To Open School-Choice Voucher Program to Islamic Schools

Texas launched its Education Freedom Accounts program, a $1 billion school-choice initiative, allowing families to use public funds for private education, including religious schools. However, no Islamic schools were initially approved to participate, prompting lawsuits by Muslim families and Islamic schools alleging that state officials intentionally excluded them based on religious identity. The plaintiffs argued that their schools met neutral eligibility criteria but were blocked due to state concerns about alleged associations with Muslim organizations. A federal district judge ordered Texas officials to ensure that Islamic schools have access to apply for the program and required the state to provide application materials to previously excluded schools.

U.S. Supreme Court Petitions to Watch:

- *Anoka Hennepin Education Minnesota (AFT Local 7007) v. Huizenga* – Whether local taxpayers have standing to sue a teachers' union over a collective bargaining provision with no net effect on school district funds.
- *Lavigne v. Great Salt Bay Community School Board* – Whether a parent's fundamental constitutional rights include the right to be notified when public schools affirmatively recognize and facilitate a child's gender-transition.
- *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.
- *Foote v. Ludlow School Committee* – Whether a public school violates parents' constitutional rights when, without parental knowledge or consent, the school encourages a student to transition to a new "gender" or participates in that process.
- *Littlejohn v. School Board of Leon County* – Whether a court may dismiss a parental-rights substantive due process claim challenging a public school's handling of a student's gender identity on the ground that the alleged conduct did not "shock the conscience," even where the claim alleges infringement of a fundamental right.
- *Crowther v. Board of Regents of the University System of Georgia* – Whether Title IX provides employees of federally funded educational institutions a private right of action to sue for sex discrimination in employment.
- *Hedgepeth v. Britton* – Whether and in what circumstances public employers may discipline employees based on their expression of controversial views while off the job.
- *C.S., by Her Next Friend Stroub v. McCrumb* **(the "Come and Take It" Hat case)** – Whether, under Tinker, school officials may rely on later-developed concerns about potential disruption (e.g., anticipated emotional harm to students) to defend a decision to restrict student expression, even when those concerns were not articulated at the time of the discipline.

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. ***(Argued Oct. 7, 2025).***
- *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. ***(Argued Jan. 13, 2026).***
- *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. ***(Argued Jan. 13, 2026).***