



Court Report

Education Law News You Can Use

April 7, 2025

U.S. ED Requires K-12 Districts to Certify Compliance with Title VI and SFFA

Last Thursday, ED issued letters to state education heads requiring certification of their compliance with “antidiscrimination obligations” under Title VI of the Civil Rights Acts and the Supreme Court’s decision in *Students for Fair Admissions v. Harvard*. In turn, state education heads will be responsible for collecting certification responses from local school districts.

U.S. ED and DOJ Announce Title IX Special Investigations Team

ED has partnered with the U.S. Department of Justice (DOJ) to create the Title IX Special Investigations Team (SIT), designed to streamline or expedite Title IX investigations. The SIT includes attorneys from ED’s Office for Civil Rights and DOJ’s Civil Rights Division, among others. U.S. Attorney General Pamela Bondi announced that “protecting women and women’s sports is a key priority” in enforcement.

U.S. Supreme Court Maintains Freeze on Teacher Training Grants

In early February, the U.S. Department of Education (ED) terminated all grants under two federal grant programs designed to improve teacher training and address teacher shortages. The termination led to immediate disruptions at various districts, including staff layoffs. Eight states sued ED, arguing that the termination was arbitrary and capricious in violation of the Administrative Procedure Act, seeking a temporary restraining order (TRO) to restore the funding. A Massachusetts federal court granted the TRO and ordered immediate restoration of the funding, finding that ED failed to provide a reasoned explanation for terminating the grants, and that the education disruption had led to immediate and irreparable harm. ED filed an emergency application to the U.S. Supreme Court on March 26. By a 5-4 vote, the Court stayed the lower court’s TRO. In a per curiam decision (i.e., not authored by a specific justice), the Court reasoned that the states “represented in this litigation that they have the financial wherewithal to keep their programs running.” Chief Justice Roberts indicated he would’ve denied ED’s application for stay but did not author or join a dissenting opinion. Justice Kagan dissented, critical of the Court’s use of its emergency docket to reach a decision. Justice Jackson, authored a separate dissent, joined by Justice Sotomayor, similarly questioning the urgency of the situation.

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U.S. Supreme Court Upholds FDA's Power to Block Flavored E-Cigs Amid Concerns About Teen Use

The U.S. Food and Drug Administration (FDA) requires e-cigarette manufacturers to submit premarket tobacco product applications demonstrating that their products are appropriate for protection of public health. In 2021, the FDA denied an application for fruit- and dessert-flavored e-liquids, prioritizing concerns over youth vaping due to the appeal of flavored products. The applicant challenged the denial, citing shifting standards in how the agency evaluated the applications. The Supreme Court found that the FDA's denial was consistent with its prior guidance.

Nebraska Congressman Introduces Bill Proposing to Expand Federal Support for School Choice

HR 833, the Educational Choice for Children Act of 2025, proposes to amend the Internal Revenue Code to create a new federal tax credit for donations made to nonprofit scholarship-granting organizations that provide education scholarships to K-12 students. Businesses may also receive a credit (up to 5% of taxable income) for qualified donations. Students from households earning no more than 300% of the area median income would be eligible for scholarships that could be used for private school tuition or homeschooling expenses. The bill is designed to expand access to private and home education by incentivizing charitable giving.

Ninth Circuit (AK, CA, HI, ID, MT, NV, OR, WA) Upholds Idaho Law Requiring School Restroom Use by Biological Sex

Idaho Senate Bill 1100 mandates that public school students use restrooms based on biological sex, requires schools to offer single-occupancy accommodations upon written request and creates a private right of action allowing students to sue for \$5,000 if they encounter a student of the opposite sex in a restroom. A 12-year-old transgender student and a student LGBTQ+ organization challenged the law's exclusion of transgender students from facilities corresponding to their gender identity as violative of the Equal Protection Clause and Title IX and sought a preliminary injunction against its enforcement. The U.S. Court of Appeals for the Ninth Circuit affirmed the district court's denial of a preliminary injunction, concluding that the plaintiffs were unlikely to succeed on the merits of their claims. The court held that Idaho's asserted interest in protecting student bodily privacy was an important governmental interest and that the law was substantially related to that interest. The court further found that Title IX did not clearly prohibit sex-segregated facilities at the time Idaho accepted federal funding.

Sixth Circuit (KY, MI, OH, TN): School Officials Did Not Increase Risk In Response to Red Flags from School Shooter

In 2021, a 15-year-old Michigan high school student, unbeknownst to school officials, carried a gun in his backpack to school and shot 10 students and one teacher, killing four students. The day of the shooting, teachers saw the student watching and drawing violent imagery and referred him to the counselor. The counselor called in the parents, conveyed suicidal concerns, and recommended immediate counseling or he would call Child Protective Services. The parents refused treatment, and the student returned to class with his backpack. The shooting ensued that afternoon. Shooting victims sued school officials on various theories, including a violation of Fourteenth Amendment due process based on a state-created danger theory. On a motion for judgment on the pleadings, the U. S. Court of Appeals for the Sixth Circuit affirmed in part and reversed in part, concluding that none of the school officials' actions were affirmative acts that shocked the conscience. While the district court determined that the threat to call CPS if the student didn't receive immediate counseling potentially supported a constitutional issue, the Sixth Circuit reversed, finding the counseling demand was made to mitigate risk. (The shooter pled guilty to first-degree murder and is now serving a life sentence; his parents were convicted of manslaughter.)

U.S. Supreme Court Petitions to Watch:

- *Hoskins v. Withers* – Whether qualified immunity shields government officials from liability even in cases where they retaliate against a person for exercising a clearly established constitutional right. (**Petition denied**).
- *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.

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. (Set for argument 4/30).
- [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. (Set for argument 4/22).
- [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. (Argued 3/26).
- [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. Skrmetti](#) – 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. Skrmetti](#) asks whether this same bill violates the fundamental right of parents to make decisions concerning the medical care of their children).