



Court Report

Education Law News You Can Use

June 9, 2025

Oklahoma Religious Charter School Remains Blocked After Deadlocked U.S. Supreme Court

In the related cases of *St. Isidore of Seville Catholic Virtual School v. Drummond* and *Oklahoma Statewide Charter School Board v. Drummond*, the Oklahoma Supreme Court had previously ruled that funding a virtual Catholic charter school violated the Establishment Clause of the First Amendment by requiring students to participate in religious activities and violated a provision of the Oklahoma Constitution prohibiting the use of public money to support a religious denomination. The U.S. Supreme Court issued a short per curiam order, indicating that Justice Barrett took no part in the consideration of the case and that "[t]he judgment is affirmed by an equally divided Court" with a 4-4 split, therefore upholding the Oklahoma Supreme Court's ruling blocking funding of the school.

U.S. Supreme Court Declines Review of "Two Genders" Shirt Case

The U.S. Supreme Court denied the petition for certiorari in *L.M. v. Town of Middleborough* where a Massachusetts seventh grader wore a t-shirt that read, "There are only two genders" and was pulled from class by school officials. He was also pulled from class for wearing a censored version of the shirt. Against a First Amendment challenge, the U.S. Court of Appeals for the First Circuit (ME, MA, NH, PR, RI) ruled that school officials were reasonable in forecasting a substantial disruption to the learning environment. Justice Thomas dissented from the denial of certiorari, reiterating his long-standing criticism of the Court's landmark decision in *Tinker v. Des Moines*. Justice Alito dissented as well, joined by Justice Thomas, condemning the First Circuit for allowing viewpoint discrimination and emphasizing that student speech should not be silenced just because it is controversial.

Massachusetts Federal Blocks Trump Administration's Efforts To Wind Down ED

The U.S. District Court for the District of Massachusetts issued a preliminary injunction halting the large-scale reduction in force (RIF) that would have cut the U.S. Department of Education's (ED) staff by more than 50%. The RIF, announced last March, followed an executive order to facilitate closure of the Department. The court emphasized that executive action cannot override Congress' statutory mandates and held that the plaintiffs (including 21 states) were likely to succeed on constitutional and Administrative Procedure Act (APA) claims. The injunction restores ED to its pre-RIF status.

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Fifth Circuit (LA, MS, TX) Narrows Path To Challenge Library Book Removals

Patrons of an Austin, Texas-area county library challenged the removal of 17 books, which included racial or sexual themes, such as books with cartoon depictions of sexual activity for pre-teen educational purposes. The U.S. Court of Appeals for the Fifth Circuit, in a 10-7 *en banc* ruling, reversed the district court's preliminary injunction and dismissed the First Amendment challenge, with two key holdings: (1) the plaintiffs could not invoke a First Amendment right to receive information to challenge the book removal; and (2) a public library's collection decisions are government speech not subject to challenge under the Free Speech Clause. The Fifth Circuit majority explicitly overruled its 1995 precedent in *Campbell v. St. Tammany Parish School Board*, which had allowed students to challenge book removals from school libraries. The seven-judge dissent argues that removing books from a public library based on their ideas constitutes unconstitutional censorship, distinguishing it from acquisition decisions and emphasizing the First Amendment's protection against government-imposed orthodoxy.

OCR Launches Investigations Into Race, Disability and Admissions Discrimination

ED's Office for Civil Rights (OCR) has opened investigations in two K-12 school systems following allegations of discrimination based on race and disability. OCR is investigating [Fairfax County, Virginia's](#) Thomas Jefferson High School for Science and Technology over alleged race-based discrimination in its admissions process — the same school that the U.S. Supreme Court declined review last year of the case on the school's revised admissions policy. OCR has also opened an investigation into the [Green Bay Area Public School District](#) over allegations that it prioritized access to special education services based on race, potentially violating Title VI of the Civil Rights Act and Section 504 of the Rehabilitation Act.

Third Circuit (DE, NJ, PA): Link to Videos on Islam Does Not Violate Establishment Clause

A New Jersey middle school teacher included hyperlinks in a slide deck to two YouTube videos about the basics of Islam, but did not show the videos or require students to watch them. A parent sued on Establishment Clause grounds after her son viewed the videos at home. Applying the "hallmarks of religious establishment" framework from the U.S. Supreme Court's 2022 decision in *Kennedy v. Bremerton School District*, the U.S. Court of Appeals for the Third Circuit affirmed summary judgment for the school district, finding that the non-required materials were presented as part of a broader, secular instructional unit on world religions.

Fifth Circuit (LA, MS, TX) Rejects State-Created Danger Theory in Teacher Death Lawsuit

A special education instructor at a Dallas public school tragically passed away after a student assaulted her. Her children sued the district under a state-created danger theory of substantive due process. In a short, per curiam opinion, the U.S. Court of Appeals for the Fifth Circuit rejected the theory as "open-ended and ill-defined."

Fourth Circuit (MD, NC, SC, VA, WV): Public Education Is Not Private Property for Takings Clause Challenge

Virginia parents of children with special needs challenged the Fairfax County Public Schools' shift to remote learning during the COVID-19 pandemic as an unconstitutional "taking" of their right to a public education, noting reduced effectiveness of online instruction, especially for students with IEPs. The U.S. Court of Appeals for the Fourth Circuit affirmed dismissal, acknowledging that while public education is a protected property interest under the Due Process Clause of the Fourteenth Amendment, it is not the same as "private property" under the Takings Clause of Fifth Amendment.

California Allows Special Education Placement at Religious Schools

Last fall, the U.S. Court of Appeals for the Ninth Circuit [ruled](#) that California's exclusion of religious schools from special education funding facially burden religious free exercise by forcing parents to choose between faith-aligned education or access to special education services. As a settlement to the case, religiously affiliated schools can now apply to be considered as potential special education placements, potentially allowing public special education funds to be used for tuition at religious schools.

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. **Petition denied.**
- [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. **Petition denied.**
- [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.
- [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:

- [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. 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).