



Court Report

Education Law News You Can Use

July 7, 2025

U.S. Supreme Court To Review Two Cases on Transgender Athlete Participation

The U.S. Supreme Court granted certiorari in [*West Virginia v. B.P.J.*](#) and [*Little v. Hecox*](#), two cases centering on transgender student participation in athletics. B.P.J. concerns a middle school-aged transgender girl barred from participating in girls' sports based on West Virginia's 2021 Save Women's Sports Act, who challenges the law based on Title IX and the Equal Protection Clause. Similarly, Lindsay Hecox is a distance runner at Boise State University and challenges Idaho's 2020 Fairness in Women's Sports Act based on the Equal Protection Clause. Both laws are currently enjoined as applied to the named plaintiffs by their respective appellate courts. Oral arguments are expected in the October 2025 Term, with a decision to come by June 2026.

U.S. Supreme Court To Review Scope of Sovereign Immunity for State Agencies

The U.S. Supreme Court granted certiorari in [*two consolidated cases*](#) centering on the New Jersey Transit Corporation, a state-created public transportation agency. The key issue is whether the agency is immune from lawsuits filed in other states where its buses or trains cause injuries. While states enjoy immunity from lawsuits in other states' courts, ambiguity remains on whether that principle extends to state-created entities. The implications of the Court's decision may extend to district-level agencies, such as state-run education authorities (e.g., online schools) or regional educational cooperatives.

Eleventh Circuit (AL, FL, GA) Reverses First Amendment Challenge to Florida Law Restricting Teacher Pronoun Use

A Florida law mandates that public K-12 employees cannot refer to themselves with "preferred personal title or pronouns" inconsistent with their biological sex. A transgendered teacher brought a First Amendment challenge to the law. The district court previously enjoined state officials from enforcing the law against the teacher, reasoning that (i) the teacher's speech is self-referential — not conveying a government message regarding her identity, and thus she was speaking as a citizen; and (ii) the teacher's interest in publicly expressing her identity outweighed the state's interests in enforcing a viewpoint-based restriction on her speech. In a 2-1 decision, the U.S. Court of Appeals for the Eleventh Circuit reversed, holding that the teacher's in-class speech was made pursuant to her official duties (regardless of whether the speech is curricular), and thus not as a private citizen, such that the state may lawfully regulate government speech. The dissenting judge argued that the decision "essentially leaves the First Amendment on the wrong side of the schoolhouse gate," and risks empowering the state to impose ideological conformity on any classroom speech.

Seventh Circuit (IL, IN, WI) Upholds Firing of Elementary School Counselor Over Off-Duty Anti-Trans Speech at Rally

In 2022, a school counselor at Milwaukee Public Schools gave an impromptu and profanity-laced speech at a public rally in Madison, Wisconsin, organized by critics of gender ideology. The counselor identified herself as a public-school employee and declared (emphatically with expletives) that "not a single" student would ever transition socially or medically at her school. Her speech was recorded and circulated widely online.

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Following media attention and parent concerns, district officials placed the counselor on administrative leave, conducted an internal review, and ultimately terminated her employment, citing use of abusive language, public identification with her role, and a breach of district policy requiring equitable support for all students. The counselor challenged her termination as retaliation for exercising First Amendment rights, arguing that her off-duty speech at a political rally was protected as citizen speech on a matter of public concern. The Seventh Circuit affirmed the dismissal, reasoning that her “profanity-filled public pledge” explicitly linked her opinions to her counseling duties, which were fundamentally incompatible with the district’s mission and policies. Accordingly, the court found that the balance of interests tipped in favor of the school district.

Seventh Circuit (IL, IN, WI) Reopens Transgender Bathroom Access Case

In a sign that the Supreme Court’s recent decision in *U.S. v. Skrametti* is already reshaping lower court precedent, the Seventh Circuit has vacated its June 2025 opinion in *D.P. by A.B. v. Mukwonago Area School District*, which had affirmed a transgender student’s right to use gender-affirming bathrooms. The court ordered a panel rehearing and invited supplemental briefing on whether it should now overrule its own precedents in *Whitaker* and *A.C. v. Martinsville* — both of which had applied heightened scrutiny to transgender student claims under the Equal Protection Clause. The court’s own commentary in *A.C.* acknowledged a split among circuits and effectively invited Supreme Court clarification. With *Skrametti*, that guidance has now arrived, and the Seventh Circuit appears poised to reconsider its framework.

Colorado Supreme Court: Students Shielded from Defamation Suits over Title IX Testimony

After multiple high school students reported a classmate for sexual harassment, a Denver-area public school district launched a Title IX investigation. The student in question was temporarily suspended and later criminally charged but was acquitted. When the district ultimately found no Title IX violation, the accused student filed a civil lawsuit against the accusers and their mothers, alleging defamation for statements made during the investigation. The Colorado Supreme Court ruled that statements made during a public school’s formal Title IX investigation are protected by absolute privilege, as the process was considered a quasi-judicial proceeding.

ED Withholds Nearly \$7B From K-12 Programs

The U.S. Department of Education has paused the release of nearly \$7 billion in congressionally appropriated funding for key K-12 initiatives, including after-school enrichment, summer learning, English learner services, teacher professional development, and academic support for migrant students.

Coalition of 16 States Sue ED Over \$1B Mental Health Grant Cuts

A group of 16 states (led by respective Democrat attorneys general) has sued the U.S. Department of Education, alleging that its April 2025 decision to terminate roughly \$1 billion in multi-year school-based mental health grants violates federal law and undermines congressional intent. The states seek an immediate injunction to restore the funding.

Fifth Circuit (LA, MS, TX) Denies Qualified Immunity to Officer for Warrantless Removal of Student from Home During Virtual School

While her parents were overseas, a 14-year-old student attending virtual school from home was taken into temporary custody by a school district police officer conducting a welfare check. The U.S. Court of Appeals for the Fifth Circuit ruled that the officer violated clearly established Fourth Amendment rights by removing the student from her home (during virtual schooling) without a warrant, parental consent, or evidence of immediate danger. The court rejected the argument that homeschooling transformed the apartment into a school setting with diminished constitutional protections.

U.S. Supreme Court Petitions to Watch:

- ***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. ***Petition denied.***
- ***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.