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Court Report

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January 12, 2026

California Federal Court Enjoins "Parental Exclusion" Policy on Student Gender Identity Transitions

The U.S. District Court for the Southern District of California issued a permanent injunction preventing school staff from disclosing a student's gender identity or social transition to their parents without the student's consent. The case arose as a class action brought by parents and teachers challenging state-created privacy policies, widely adopted by school districts, which mandated secrecy from families regarding students' gender identity expressions at school. The court found that these policies significantly burdened parents' Fourteenth Amendment substantive due process rights to direct the upbringing and medical care of their children.

Noting that a student's expression of gender incongruence may signal psychological distress or a medical condition like gender dysphoria, the court emphasized that parents have a constitutional right to be informed and to decide whether professional care is needed. The court also concluded that the policies violated parents' First Amendment right to the free exercise of religion, citing recent Supreme Court guidance (the 2025 decision in *Mahmoud v. Taylor*) affirming parental rights to guide their children's religious upbringing even within public schools. For teachers, the court concluded that the policies substantially burdened their own free exercise rights by forcing them to participate in school practices that conflict with their sincerely held religious beliefs. The court also recognized that the policies compelled speech by requiring teachers to mislead or withhold information from parents, thus violating their First Amendment free speech protections.

Rejecting the state's argument that nondisclosure serves a compelling interest in student safety, the court concluded that the policies were neither narrowly tailored nor justified at the expense of constitutional rights.

Massachusetts Federal Court Grants Parent Right to LGBTQ+ Opt-Out

The U.S. District Court for the District of Massachusetts issued a preliminary injunction in favor of a father who sought to opt his kindergarten-aged son out of classroom instruction that included LGBTQ+ themes, citing a conflict with the family's religious beliefs. The father, a devout Christian, filed suit after Lexington Public Schools refused his repeated requests to be notified of such content and to excuse his son from participation. The school district's kindergarten curriculum included various books that portrayed same-sex couples, gender nonconformity and LGBTQ+ activism. Although the district allows religious opt-outs from required curriculum, it denied the father's requests on the grounds that they were overbroad or insufficiently specific. The district also declined to commit to providing advance notice of when such materials would be used.

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Relying on the Supreme Court's 2025 decision in *Mahmoud v. Taylor*, which held that parents have a constitutional right under the Free Exercise Clause to opt their children out of instruction that substantially interferes with the religious upbringing they seek to provide, the court concluded that the inclusion of LGBTQ+ materials posed a "very real threat" of undermining the parent's beliefs and therefore triggered strict scrutiny. The court found that the school district had failed to show that denying the parent's opt-out request was necessary to achieve a compelling governmental interest, especially where the district conceded that some materials would be subject to opt-out and did not offer a clear justification for refusing notice or broader exemptions. The court further rejected the argument that opt-out rights did not apply because kindergarten is not compulsory in Massachusetts, emphasizing that families cannot be forced to choose between religious beliefs and access to public education. Ultimately, the court ordered the school district to provide the parent with notice and an opportunity to opt his child out of any instruction involving materials that may conflict with his sincerely held religious beliefs.

Sixth Circuit (KY, MI, OH, TN) Upholds Fourth Amendment "Seizure" of Student in Gun-Related Investigation

School administrators and law enforcement questioned a Michigan eighth grader after multiple classmates reported that he had mentioned having or was thinking about bringing a gun to school. The student was brought to the principal's office for questioning and investigation; school officials searched the student's person, backpack and locker, but found no weapon. The student challenged aspects of the school officials' investigation as an unreasonable seizure in violation of the Fourth Amendment. In a matter of first impression, the U.S. Court of Appeals for the Sixth Circuit held that in the public school context, a "seizure" occurs within the meaning of the Fourth Amendment when a school official limits the student's freedom of movement in a manner that significantly exceeds that inherent in everyday, compulsory attendance. Borrowing a similar standard from school-related searches, the court concluded that even assuming a "seizure," the duration (30 minutes) and justification (confirming the presence or absence of weapons) were clearly justified and reasonable.

Fourth Circuit (MD, NC, SC, VA, WV) Upholds School Board Policy Prohibiting Public Comments that Criticize Individual Students

When a group of D.C.-area parents sought to criticize their local school board at a public meeting for allowing an unnamed student with an alleged gang affiliation and firearm-related arrest to return to school, the board chair interrupted them and eventually ended the public comment period early, citing school board policy prohibiting "comments that target, criticize or attack individual students." The parents challenged the enforcement of the policy as unconstitutional viewpoint discrimination and unconstitutionally vague. In a 2-1 decision, the U.S. Court of Appeals for the Fourth Circuit found the board's policy, which applied to a limited public forum, was viewpoint-neutral and consistently enforced. The court emphasized that while the plaintiffs could criticize district policies broadly, they could not do so in a way that targeted a specific student. The court found no evidence that the board applied the policy discriminatorily or pretextually and concluded the plaintiffs' speech was interrupted solely because it violated the policy's facially neutral terms. The court also rejected the plaintiffs' claim that the policy was unconstitutionally vague. The terms "target," "criticize," and "attack," while not mathematically precise, were found to be sufficiently clear to give reasonable notice of prohibited conduct. The court emphasized that some ambiguity is inevitable in language and that a high bar must be met to strike down civil regulations as void for vagueness.

U.S. Supreme Court Petitions to Watch:

- *Little v. Llano County* – Whether the First Amendment applies to public library book-removal decisions.***(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.
- *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.

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. ***(Set for argument 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. ***(Set for argument Jan. 13, 2026; Suggestion of Mootness deferred to oral argument).***
- *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. ***(Set for argument Jan. 14, 2026).***