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Court Report

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U.S. Department of Education Issues New Guidance on Prayer and Religious Expression in Schools

The U.S. Department of Education (ED) has issued updated guidance on constitutionally protected prayer and religious expression in public schools, superseding the 2023 guidance from the previous administration. The guidance clarifies that students, teachers and school employees may engage in personal prayer at school, including visible prayer with voluntary student participation, as long as the school doesn't compel participation, sponsor the prayer or speak on behalf of the institution. The guidance relies heavily on two recent Supreme Court decisions: *Kennedy v. Bremerton School District* (2022) (regarding a coach's post-game prayer) and *Mahmoud v. Taylor* (2025) (addressing religious objections to curriculum content), emphasizing that schools cannot suppress religious expression, show hostility toward religious beliefs or treat religious speech less favorably than secular speech. Schools must accommodate religious practices under a strict scrutiny standard and cannot force students to affirm viewpoints contrary to their sincere religious beliefs, though they retain authority to prevent disruption, targeted harassment and threats.

Idaho Teacher Sues Over Banned Classroom Welcome Poster

An Idaho middle school teacher sued district administrators and state education officials after they ordered her to remove classroom posters that read, "In this room everyone is welcome, important, accepted, respected, encouraged, valued, equal," and "Everyone is welcome here" featuring hands in various skin tones. The teacher had previously hung the motivational posters without complaint for years, but a recently enacted state law prohibits "political" and "ideological" flags and banners in schools. The teacher challenges the state law as unconstitutionally vague under the Fourteenth Amendment and chilling protected speech under the First Amendment.

California Federal Court Blocks U.S. Department of Education From Cutting Federal Funding in FERPA/Gender Identity Records Case

California, through its attorney general Rob Bonta, filed suit in the Northern District of California challenging the U.S. Department of Education's January 2026 findings letter that threatened to terminate $4.9 billion in annual federal education funding unless the state implemented six "corrective actions" related to FERPA compliance. The Department investigated California following a complaint from an

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advocacy organization alleging that California's Assembly Bill 1955 (which prohibits school employees from being required to disclose information about a student's gender identity without the student's consent unless required by law) violated FERPA's parental access provisions. The findings letter concluded that California facilitated policies creating pressure on local school districts to withhold gender support plans and gender-identity-related information from parents. California argued that FERPA imposes no affirmative duty on schools to disclose education records to parents absent a parental request, pointing to the Department's own March 2025 letter to educators which explicitly stated this principle. The same day California filed suit and responded to the findings letter, the state sought emergency relief to prevent funding termination. The district court granted a temporary restraining order blocking any withholding of funds until the merits could be fully resolved, noting that while no clear evidence showed the federal government intended immediate action, temporary judicial intervention was necessary given potential harm to the entire California education system and millions of affected students.

Fourth Circuit (MD, NC, SC, VA, WV) Vacates Injunction to Federal DEI Executive Orders

The U.S. Court of Appeals for the Fourth Circuit vacated a district court's preliminary injunction that had blocked enforcement of two executive orders directing federal agencies to end DEI programs in federal grant and contract processes. The plaintiffs, including the Mayor of Baltimore and a national organization for DEI professionals in higher education, brought a facial constitutional challenge to certain provisions of the executive orders. The Fourth Circuit ruled that the challenged provisions were not unconstitutionally vague, reasoning that the government funding decisions receive greater latitude for vagueness than criminal or regulatory schemes. (Note that this case is distinct from the Fourth Circuit appeal on anti-DEI directives that was dismissed last month.)

U.S. Supreme Court Petitions to Watch:

- *Mirabelli v. Bonta* (emergency application for stay of Ninth Circuit's order vacating a preliminary injunction) – Whether public school teachers have a First Amendment right to refuse to comply with district policy requiring them to use students' preferred names and pronouns and refrain from disclosing gender identity information to parents.
- *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.

- *Adams v. Sacramento County* – Whether public employee speech, made as a private citizen and about a controversial subject, loses all First Amendment protection unless the speech is intended "to ignite the public interest."
- *Hedgepeth v. Britton* – Whether and in what circumstances public employers may discipline employees based on their expression of controversial views while off the job.

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).***
- *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. ***(Argued Jan. 14, 2026).***