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Court Report

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Federal Government Moves To Dismiss *Global Nurse Force* H-1B Challenge

Among two other major lawsuits currently challenging the federal government's new $100,000 supplemental fee for certain H-1B petitions, the government moved to dismiss all claims in the *Global Nurse Force* coalition case pending in the U.S. District Court for the Northern District of California. While the plaintiffs are seeking a preliminary injunction and have moved to certify a class of affected employers, the government contends that the plaintiffs lack standing, arguing that the alleged injuries are speculative. The government also raises other administrative arguments, including that courts cannot review presidential entry restrictions under immigration law.

Meanwhile, in the two other major cases challenging the visa, the *U.S. Chamber of Commerce* case has been appealed to the U.S. Court of Appeals for the District of Columbia on an expedited schedule, and the *California v. Noem* case (led by a coalition of state attorneys general) remains pending in Massachusetts federal district court in early stages.

Fourth Circuit (MD, NC, SC, VA, WV) Rejects First Amendment Challenge to Maryland School District's Pronoun Policy

Montgomery County Public Schools in Maryland, one of the nation's largest school districts, adopted a set of guidelines mandating that staff members "address students by the name and pronoun corresponding to the gender identity that is consistently asserted at school." A substitute teacher sought a religious accommodation from compliance with the guideline, citing sincerely held religious beliefs rooted in "her understanding of her Christian religion and the Holy Bible." The school district ultimately rejected the requested accommodation and the substitute teacher did not teach in the district for two years. The substitute teacher brought a First Amendment challenge to the guidelines, but the district court dismissed the claims.

In a 2-1 decision, the U.S. Court of Appeals for the Fourth Circuit affirmed the dismissal, concluding that the guidelines' mandate does not concern the speech of a private citizen, but rather establishes official job duties to which First Amendment protection does not attach. The dissenting judge argued that the district's policy impermissibly compelled speech by forcing teachers to affirm a contested ideological message and contended that reasonable alternatives (e.g., using students' last names) could avoid the conflict. Ultimately, the ruling contrasts with those from other circuit courts, potentially teeing up the issue for Supreme Court review.

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Ninth Circuit (AK, CA, HI, ID, MT, NV, OR, WA) Blocks Key Portion of Idaho's Library "Harmful to Minors" Law

A group of private schools challenged a 2024 Idaho law that allows parents, minors and the state to sue and seek damages or injunctive relief against schools and libraries for making materials deemed "harmful to minors" available to students. In effect, the law encourages schools and libraries to restrict or relocate challenged books to adult-only sections to avoid liability. The schools brought a pre-enforcement First Amendment challenge, arguing that the law sweeps far beyond unprotected obscene speech and chills access to protected speech.

The U.S. Court of Appeals for the Ninth Circuit agreed in part and reversed the district court's denial of a preliminary injunction. The court focused on a provision requiring decision-makers to assess whether a work has serious literary, artistic, political or scientific value for minors "in the context in which it is used." Although the clause appears intended to track Supreme Court obscenity standards, the court concluded it instead invites subjective judgments about age, setting or appropriateness. The court reasoned that First Amendment doctrine requires serious value to be judged by an objective standard, not by shifting views of what different audiences or communities find acceptable. Coupled with the law's private enforcement mechanism, the "context" requirement pressures schools and libraries to remove or restrict books preemptively, even when the material is not obscene. Because the statute offers no workable way to limit access for younger students without also blocking access for older minors, the court found that the provision likely chills protected expression. While the Ninth Circuit stopped short of invalidating the entire law, it sent the case back to the district court to craft a narrow injunction blocking enforcement of the unconstitutional provision while litigation continues.

Department of Education Drops Appeal of Injunction Blocking Anti-DEI Directives

Last April, the U.S. District Court for the District of Maryland had entered a preliminary injunction blocking enforcement of the U.S. Department of Education's (ED) anti-DEI directives, including the February 2025 Dear Colleague letter. ED appealed the temporary block to the U.S. Court of Appeals for the Fourth Circuit (MD, NC, SC, VA, WV) but recently filed a joint stipulation to dismiss the appeal. Two other lawsuits regarding the anti-DEI directives remain pending in federal courts in New Hampshire and Washington, D.C.

Advocacy Group Sues Los Angeles Unified School District Over Race-Based Classifications

A nonprofit advocacy organization filed suit against the Los Angeles Unified School District, alleging that the district operates a racially discriminatory system in allocating educational resources and opportunities, specifically by classifying individual students as "Hispanic, Black, Asian, and Other Non-Anglo" and labeling schools as composed of those students if they exceed a 70% threshold. The group contends that the district's system disadvantages non-designated schools with larger class sizes and reduced staffing and disadvantages the attendant students (including students identified as White or of Middle Eastern descent) based on the defined racial/ethnic categories. The complaint asserts violations of the Equal Protection Clause and Title VI.

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.

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).***