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Court Report

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U.S. Supreme Court Holds that Title IX and Equal Protection Clause Permit States to Reserve Girls' and Women's Sports Teams for Biological Females

The U.S. Supreme Court upheld West Virginia and Idaho laws that determine eligibility for girls' and women's athletic teams based on biological sex. The consolidated cases involved a West Virginia middle school student who sought to compete in girls' cross-country and track and a college student who sought to compete in women's soccer, cross-country and track. In a 6–3 decision, the Court reversed rulings from the U.S. Courts of Appeals for the Fourth and Ninth Circuits that had allowed challenges to the state laws to proceed or had blocked their enforcement. The majority held that Title IX permits schools to separate athletic teams by biological sex because the statute's athletics regulations expressly authorize separate teams for male and female students when competitive skill or physical contact forms the basis for team selection. The Court also held that the laws satisfy the Equal Protection Clause because physiological differences between the sexes bear a substantial relationship to the states' interests in athletic safety, competitive fairness and equal athletic opportunities for female students. Although the laws impose categorical eligibility rules, the Court concluded that states do not need to assess each transgender athlete individually once they permissibly organize teams by sex, reasoning that individualized assessments would prove difficult to administer and could undermine the purposes of the female athletic category. The majority added that courts should give legislatures latitude to address unresolved medical and scientific questions concerning whether puberty blockers or hormone treatment eliminate male athletic advantages. The Court limited its decision to whether states and schools may reserve female teams for biological females; it did not decide whether Title IX or the Constitution permits schools voluntarily to allow transgender girls and women to compete on those teams.

Justice Thomas agreed with the majority but wrote separately to emphasize his view that transgender status does not constitute a suspect or quasi-suspect classification requiring heightened constitutional scrutiny. Justice Gorsuch highlighted Title IX's status as Spending Clause legislation, reasoning that the statute did not clearly notify federal-funding recipients that they could not restrict female teams to biological females; he also explained that *Bostock v. Clayton County* still treats transgender discrimination as sex-based but does not establish that every sex-based distinction constitutes unlawful discrimination. Justice Sotomayor, joined by Justices Kagan and Jackson,

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agreed that the West Virginia student's Title IX claim failed because federal law and regulations permit sex-separated athletic teams, but dissented from the equal protection ruling. She reasoned that the majority improperly weakened intermediate scrutiny by accepting a categorical exclusion without requiring the states to show that the rule substantially fit their asserted interests as applied to transgender athletes who may lack a meaningful competitive advantage. Justice Jackson separately argued that the Court should not have defined "sex" under Title IX as biological sex because the student had conceded that issue, and that the Court should have left the statute's meaning in other educational contexts unresolved.

Eleventh Circuit (AL, FL, GA) Revives Title IX and Equal Protection Claims Based on Football Team Hazing

A male high school freshman in Alabama alleged that older football players subjected him to repeated sexualized harassment, including forcing him to look at another player's genitals, twisting his nipple, slapping his buttocks, and surrounding and beating him after threatening to penetrate him with a car key. The student reported the attempted assault, but the football coach allegedly told him that he was taking the incident too seriously and later described "soft" and "easily offended" people while signaling to the team that he was speaking about the student. After teammates continued to taunt him and school officials imposed only limited monitoring on the involved players, the student transferred to another school and sued the district under Title IX and the coach under the Equal Protection Clause. The U.S. Court of Appeals for the Eleventh Circuit vacated the dismissal of both claims, holding that the allegations plausibly described harassment based on sex stereotypes as well as conduct that was inherently sexual. The court reasoned that the players allegedly targeted the student as insufficiently masculine and used physical conduct, sexual threats and gender-based insults to emasculate him; his status as a freshman did not prevent the harassment from also being sex-based. The court further rejected the district's characterization of the conduct as football-team horseplay, emphasizing that an attempted sexual assault, repeated offensive touching, and related verbal harassment could qualify as severe, pervasive and objectively offensive conduct that denied the student access to educational opportunities. The allegations also supported an inference that the coach knew of and acquiesced in the harassment because he allegedly knew of an established "keying" practice, failed to address the conditions that allowed it to continue, and publicly portrayed the student as soft after the report. The court denied the coach qualified immunity at the pleading stage, concluding that existing precedent clearly established that a school official may not respond to known sexual harassment with deliberate indifference.

In a partial dissent, Judge Lagoa agreed that the inherently sexual conduct stated a Title IX claim but disagreed with the majority's reliance on a sex-stereotyping theory. She reasoned that the attempted penetration and other sexual conduct independently satisfied Title IX, making it unnecessary to import workplace sex-stereotyping doctrine from Title VII into the student-on-student harassment context. She also stressed that Title IX operates through conditions attached to federal funding and cautioned that expanding liability based on perceived gender norms could blur the distinction between actionable sexual harassment and ordinary bullying that Title IX does not regulate.

Texas Approves Statewide Reading List Requiring Biblical Texts in Public Schools

The Texas State Board of Education approved a required K–12 reading list that includes Bible stories and passages alongside novels, poetry, speeches and other literary works. The list includes illustrated versions of biblical stories for elementary students and direct excerpts from books such as Exodus, Psalms, Matthew, Luke, Genesis and Job in later grades. The board developed the list under a 2023 law directing it to require at least one literary work at each grade level, although the final list establishes a substantially broader minimum curriculum. School districts and charter

schools may add locally selected works, but students must demonstrate proficiency using the required texts, potentially allowing the material to appear in state assessments. The requirements are scheduled to begin in the 2030–31 school year. Supporters described the biblical selections as culturally and historically significant literature, while opponents raised concerns about religious neutrality, representation of other faiths, instructional time, and possible challenges under the First Amendment's Establishment Clause.

Ohio Supreme Court Finds Attorney General Lacked Standing to Sue Columbus City Schools in Transportation Dispute

The Ohio attorney general sought a writ ordering Columbus City Schools to transport private- and charter-school students while families challenged the district's determinations that transportation was impractical. The Ohio Supreme Court dismissed the action without reaching the transportation dispute, holding that the attorney general lacked standing. The attorney general relied exclusively on *parens patriae* ("parent of his or her country," referring to the role of the state as guardian of persons under legal disability), but the court concluded that doctrine did not permit the state to pursue injuries suffered directly by a relatively small group of students and families in one district.

Colorado Supreme Court Finds Corroborated Anonymous Tip Justified Search of Student's Backpack

An anonymous report stated that a high school student had smoked marijuana during biology class and provided the student's name, appearance, location, and the approximate time of the conduct. An assistant principal confirmed that the student attended the identified class, matched the physical description, and was the only student he knew who used the reported name. He then searched the student's backpack and found a marijuana vape pen. The Colorado Supreme Court reversed an order suppressing the evidence, holding that the fresh and detailed tip, combined with the administrator's corroboration, created reasonable suspicion under the Fourth Amendment. The court explained that an administrator need not independently confirm criminal conduct before acting because corroboration of innocent details can establish that an anonymous tipster had reliable knowledge of the student's activities. The court did not address the permissible scope of the search because the student challenged only whether the search was justified at its inception.

Wisconsin Supreme Court Invalidates Minority College Grant Program

The Wisconsin Supreme Court struck down a state grant program that limited need-based aid at private and technical colleges to students from specified racial, national-origin, ancestry, and immigration-related groups. The court first held that Wisconsin taxpayers had standing because an allegedly unconstitutional expenditure of public money constitutes a pecuniary injury, even when each taxpayer's individual loss is minimal, and an injunction would not reduce the overall tax burden. On the merits, the court held that the program failed strict scrutiny. The state did not show that the legislature originally enacted the program to remedy identified discrimination or documented retention disparities at the institutions covered by the law, and later evidence could not supply a post hoc justification. The program also was not narrowly tailored because group membership determined eligibility categorically, without individualized consideration, and the state had not adequately evaluated workable race-neutral alternatives. Two concurring opinions agreed that U.S. Supreme Court precedent required invalidating the program, while separately emphasizing Wisconsin's continuing racial disparities in education and questioning whether the federal equal-protection framework adequately accounts for those conditions.

U.S. Supreme Court Petitions to Watch:

- *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. ***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. ***Petition granted, remanded in light of West Virginia v. B.P.J.***

- *Smith v. Kind* – Whether, when a government official acts in an obviously unconstitutional manner, that is sufficient for the violation to be clearly established, or it is a violation clearly established only if there is binding precedent in a factually indistinguishable case. ***Petition denied.***

- *E.D. ex rel. Duell v. Noblesville School District* **(pro-life student club)** – Whether Hazelwood v. Kuhlmeier (which holds that schools can control school-sponsored student expression) applies (1) whenever student speech might be erroneously attributed to the school; (2) when student speech occurs in the context of an "organized and structured educational activity"; or (3) only when student speech is part of the "curriculum." ***Petition denied.***

- *D.A. ex rel. B.A. v. Tri County Area Schools* **("Let's Go Brandon" sweatshirts)** – Whether *Bethel School District v. Fraser* (which allowed a school to discipline a student for a school assembly speech filled with sexual innuendo) permits schools to censor nondisruptive political speech that is not plainly profane or lewd.

U.S. Supreme Court Cases to Watch:

- *St. Mary Catholic Parish v. Roy* – Whether a state can attach nondiscrimination requirements (here, requiring Catholic preschools to comply with LGBTQ-inclusive enrollment) as a condition to receiving public funding when those conditions conflict with religious doctrine.

- *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.