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Court Report

Education Law News You Can Use

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Washington Federal Court Blocks U.S. Department of Education from Terminating School Mental Health Grants

A federal district court in Washington temporarily blocked the U.S. Department of Education from terminating school mental health grants awarded to programs in 15 states while litigation over the grants proceeds. The states argued that the Department planned to terminate the grants because they no longer aligned with the current administration's priorities regarding diversity, equity and inclusion, despite the grants having been approved under prior criteria. The court concluded that the states were likely to succeed on their claims that the Department's termination plan violated the Administrative Procedure Act because it relied on new, unpublished priorities that did not exist when the grants were awarded, failed to follow required statutory and regulatory procedures for terminating federal education grants, and represented an unexplained change in agency policy. The court also found that the planned grant terminations threatened immediate and irreparable harm to school-based mental health programs and the students they serve. The temporary restraining order prohibits the Department from terminating the grants based on the new priorities or without providing the procedural protections required under federal law while the case moves forward.

ED Finds Massachusetts School District Violated Parental Rights by Ignoring Opt-Out Requests for Behavioral Survey

The U.S. Department of Education's Student Privacy Policy Office determined that Burlington Public Schools in Massachusetts violated the Protection of Public Rights Amendment, a 1978 federal law which gives parents the right to opt their children out of sensitive surveys, by ignoring parents' requests to opt their children out of a "Youth Risk Behavior Survey" asking middle and high school students about drug and alcohol use, sexual activity, sexual orientation and gender identity.

Tenth Circuit (CO, KS, NM, OK, UT, WY): School Officials May Face Equal Protection Claims for Deliberate Indifference to Peer Racial Harassment

A Black middle school student in Kansas allegedly endured years of repeated racial harassment by classmates, including racial slurs, physical harassment, threats and encouragement to die by suicide. According to the complaint, the student's mother repeatedly reported the harassment to school counselors, administrators, the superintendent and school board members over several years, yet the bullying continued. After the student

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brought a pocketknife to school because he feared for his safety, the district suspended him rather than addressing the alleged harassment, and his family ultimately transferred him to another school out of state. The student's mother sued the school district and several individual school officials, alleging, among other claims, that the officials violated the student's Fourteenth Amendment right to equal protection by acting with deliberate indifference to known racial harassment. The individual defendants argued they were entitled to qualified immunity because no clearly established law required school officials to respond to peer racial harassment under the Equal Protection Clause.

The U.S. Court of Appeals for the Tenth Circuit rejected that argument and affirmed the district court's refusal to dismiss the claim. The court concluded that longstanding precedent clearly established that government officials may violate the Equal Protection Clause when they knowingly acquiesce in discriminatory harassment by third parties, and that this principle applies to deliberate indifference to student-on-student racial harassment just as it does to peer sexual harassment. The court also held that the complaint sufficiently alleged the personal involvement of the individual school board members by alleging they received direct notice of the ongoing harassment but failed to respond. The decision allows the student's § 1983 equal protection claims against the individual officials to proceed while reinforcing that school officials who knowingly disregard persistent race-based harassment may not be shielded by qualified immunity.

Tenth Circuit (CO, KS, NM, OK, UT, WY) Affirms Judgment for Colorado School District in Principal Demotion and Sex Discrimination Case

The Tenth Circuit affirmed judgment for a Colorado school district and its administrators on constitutional and employment discrimination claims arising from the demotion of an elementary school principal. The court held that the principal lacked a protected property interest in continued employment as a principal because Colorado law and the district's practice of annually renewing administrator contracts did not create a constitutional entitlement to continued employment in that position. The court also held that the district established a valid Equal Pay Act defense by showing that any pay differential was based on years of relevant administrative experience rather than sex, even while clarifying that Equal Pay Act plaintiffs are not required to prove pretext as a separate element of their claims. Finally, the court concluded that the evidence was insufficient to support the plaintiff's Equal Protection and Title IX disparate-treatment and sex-stereotyping claims, emphasizing the absence of admissible comparator evidence and the lack of evidence from which a reasonable jury could find that sex was a motivating factor in the district's employment decision.

U.S. Supreme Court Petitions to Watch:

- *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.
- *Association for Education Fairness v. Montgomery County Board of Education* – Whether a plaintiff alleging that a school district implemented facially-neutral admissions criteria for a racially discriminatory purpose must show that the criteria produced a disparate impact on the targeted racial group before a court may consider evidence of discriminatory intent.

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.