



# Court Report

Education Law News You Can Use

---

---

## **The U.S. Department of Education Proposes Change to Title IX Regulations on Student Eligibility for Athletic Teams**

The Department of Education released a notice of proposed rulemaking on athletic eligibility under Title IX, open for public comment for 30 days from the date of its publication. Under the proposed regulation, schools could not adopt or apply a categorical ban on transgender students from participating on teams consistent with their gender identity. However, the proposed rule would permit sex-related criteria limiting participation of some transgender students at the high school and college levels.

## **Seventh Circuit (IN, IL, WI) Rules in Favor of School District that Fired Teacher over Teacher's Refusal to Use Transgender Students' Names**

A former Indiana high school orchestra teacher refused to call transgender students by their preferred names and pronouns, even if they were recorded accordingly in the school database, based on sincere religious objections. For a time, the teacher and school officials agreed that the teacher could refer to all students by their last name only, but this practice had a negative effect on all students, so the school district rescinded the last-name-only accommodation. Following the teacher's termination for refusal to comply with school policy of addressing students as they are recognized in the school database, the teacher brought Title VII claims for religious discrimination. In a 2-1 decision, the United States Court of Appeals for the Seventh Circuit concluded that the teacher's religious objection did not have to be accommodated, as it worked an undue burden on the school's educational mission by negatively affecting the learning environment.

## **Fifth Circuit (TX, LA, MS) Rules that Principal Had Qualified Immunity from First Amendment Claim After Disciplining Student for Off-Campus Speech**

A high school quarterback sent a taunting, racially-charged, off-campus Snapchat video to a student from a rival high school following a football game. Following disciplinary action, the quarterback argued that the principal's regulation of his off-campus speech was unconstitutional. However, the United States Court of Appeals for the Fifth Circuit concluded that the principal was entitled to qualified immunity, as there was no clearly established rule that could have put him on notice that discipline would have been unconstitutional. Notably, the Supreme Court's June 2021 decision regarding a disgruntled cheerleader's off-campus Snapchat posts as protected speech had not been issued yet when the relevant events between the principal and the quarterback occurred.

## **Pittsburgh Public Schools Files Suit against Major Social Media Companies, Joining Nationwide Trend**

School districts across the nation continue filing lawsuits against social media companies, this time with Pittsburgh Public Schools claiming that the companies target young people to compulsively use their platforms to increase profits. Specifically, the school district claims that the social media companies know that children's developmental stage leaves them particularly vulnerable to the addictive effects of the array of design features deliberately embedded in their services.

## Pending U.S. Supreme Court Petitions to Watch:

- [\*\*The Ohio State University v. Snyder-Hill\*\*](#) (linked with [\*\*The Ohio State University v. Gonzales\*\*](#)): Whether, or to what extent, a claim under Title IX accrues after the date on which the alleged injury occurred (e.g., by a state statute of limitations for personal injury actions of two years, or by when the alleged victims learn of the abuse and the school's inaction).
- [\*\*West Virginia v. B.P.J.\*\*](#): Whether the Supreme Court should vacate the Fourth Circuit's injunction of West Virginia's Save Women's Sports Act, a law which, in effect, limits participation in girl-designated school-sponsored sports to individuals whose reproductive biology at birth is female. [\*\*Application to Vacate the Fourth Circuit's Injunction Denied.\*\*](#)
- [\*\*Lindke v. Freed\*\*](#) (linked with [\*\*O'Connor-Ratcliff v. Garnier\*\*](#)): Whether a public official's social media activity can constitute state action only if the official used the account to perform a governmental duty or under the authority of his or her office. (In O'Connor-Ratcliff specifically, two school board members blocked parents from their respective personal social media pages where they would sometimes discuss school matters with the public.)
- [\*\*Kincaid v. Williams\*\*](#): Whether the diagnosis of gender dysphoria, found in the DSM-5, is excluded from the Americans with Disabilities Act's definition of disability under 42 U.S.C. § 12211(b).

Compiled By:

**BOSE  
McKINNEY  
& EVANS LLP**

ATTORNEYS AT LAW

