



Court Report

Education Law News You Can Use

School Districts Increasingly Suing Social Media Companies, Citing Student Mental Health Crisis

The increase in school districts suing social media companies continues nationwide. The Washington Post reported that since a suit by Seattle Public Schools in January, school districts in Washington, California, Pennsylvania, New Jersey, and Florida have followed. In recent weeks, 11 Kentucky school districts authorized lawsuits and three Alabama school districts filed lawsuits. Amidst cyberbullying incidents, threats resulting in closures, vandalism, and general spikes in mental health emergencies during the school day, school districts believe they are entitled to compensation for their efforts and resources expended to address the mental health challenges caused by social media.

U.S. Supreme Court Rules That Deaf Student's ADA Claim against School District May Proceed without Exhausting Remedies under IDEA

A deaf public high school student in Michigan learned that he suddenly was not going to receive a diploma months before graduation. But the school district had assigned aides to the student who did not know sign language and therefore could not translate classroom material for the student. The student and his family first filed a complaint with the Michigan Department of Education, alleging the school failed to provide an appropriate public education under the Individuals with Disabilities Education Act (IDEA). The parties settled the administrative complaint before a hearing. However, the student then sued the school district in federal court, seeking compensatory damages under the American with Disabilities Act (ADA). In response, the school district argued that the student could not bring an ADA claim without first exhausting all of his IDEA administrative remedies and procedures. The Supreme Court disagreed, and unanimously held that the student was not required to exhaust administrative remedies under IDEA because the sought-after remedy is not available under IDEA, and he therefore may instead proceed under other federal anti-discrimination statutes such as the ADA. The effect of the decision allows for the possibility of two separate proceedings, giving parents more leverage in negotiating with public schools over assistance for children with disabilities.

Education Secretary Cardona Issues Dear Colleague Letter on Corporal Punishment

The Biden Administration issued a notice condemning the practice of corporal punishment in schools. The letter cites that corporal punishment is either allowed or not expressly prohibited in 23 states. According to analysis by The Education Trust, 75% of all cases occur in just four states: Mississippi, Texas, Arkansas, and Alabama.

Sixth Circuit Finds Elementary Student with Autism was Improperly Excluded from General Classroom Environment

Parents of a Tennessee public school student diagnosed with autism sued a school district under IDEA, the ADA, and Section 504 of the Rehabilitation Act, alleging that the school district improperly excluded their child from the general education classroom setting by placing him in a self-contained classroom for students with disabilities for nearly all of his kindergarten instruction. On appeal, the Sixth Circuit (KY, MI, OH and TN) found that the school district placed the student in a more restrictive setting than his disability required, as the

educational benefits of the self-contained placement did not fair outweigh those of a mainstream classroom. The record reflected that the student succeeded in a blended classroom environment with supplementary aids, and that going between classroom environments would stifle his development by having his classmates perceive him as a visitor.

Teacher States Title VII Associational Discrimination Claim for LGBTQ+ Advocacy

A public high school teacher plausibly alleged that discriminatory acts by her employer (e.g., denial of her application to be re-appointed curriculum leader) were sex-based because of teacher's advocacy for and association with LGBTQ+ student group, although she was not herself a member of the LGBTQ+ community.

Pending U.S. Supreme Court Petitions to Watch:

- **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.
- **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

