

COURT REPORT

March 2026



Eleventh Circuit Court of Appeals

Section 1981 – Qualified Immunity

***Foster v. Echols County Schools District*, --- F.4th ----, 2026 WL 759056 (11th Cir. Mar. 18, 2026)**

This case involves a black employee, being one of the first black faculty members in the Georgia school system, who alleged she was subjected to years of racial hostility by school system officials and administrators. In 2008-2009, she sued the school system after being reassigned to what she labeled a “less desirable” position at an alternative school and stripped of her club leadership duties, claiming such actions by the school system were racially motivated. The matter was settled, but the employee alleged that discrimination continued when she was informed that community members objected to having black teachers and her white colleagues were instructed not to interact with her. Following a federal civil rights investigation into these new claims, a subsequent settlement was reached requiring the school system to implement reforms and training on recruiting and increasing black applicants.

The employee was terminated in 2018 for alleged ethical violations, but state authorities later found no probable cause supporting her termination. The employee filed suit against the school district, its board members, and the former and current superintendents. During litigation, it was discovered that a couple of board members involved in the decision to terminate her had used racial slurs in text messages, prompting the employee to file a new EEOC charge for discrimination and retaliation. The school system again settled in 2020, agreeing to pay the employee, reclassify her termination as a voluntary resignation, and immediately revise and publicize its recruitment and hiring practices. Sometime later, the employee alleged the school system failed to implement the settlement’s requirements, instead relying on outdated policies that did not meet settlement terms. The employee sued the school system, school board, and school officials, asserting that the officials knowingly refused to comply with the settlement terms because of racial animus, thereby impairing her contractual rights. The school officials moved to dismiss her suit, asserting qualified immunity. The trial court dismissed several of the employee’s claims from her amended complaint; however, it allowed her § 1981 claim to proceed against the school officials and denied their request for qualified immunity.

Whether qualified immunity was applicable to the school officials’ conduct was the only issue addressed on appeal before the Eleventh Circuit, which found it was not. Federal law prescribes that “every person shall have the same right” to “make and enforce contracts... as is enjoyed by white citizens.” See 42 U.S.C. § 1981. Here, the Court expressed that when reading federal law and other legal precedents, any reasonable official would know he cannot interfere with a contract because of a person’s race. Therefore, the Court rejected the school officials’ contention that their alleged conduct of impairing the employee’s contractual relationship with the school system based on her race did not violate clearly established law. The school officials further argued they were still entitled to immunity because even if they failed to comply with the settlement agreement, the law was not clear enough about whether they could be held personally liable under § 1981. The Court again rejected this argument, highlighting that an official’s understanding about whether he may be held liable was irrelevant. The Court emphasized that an official cannot escape accountability by pointing to uncertainty about liability rules while knowingly engaging in racially discriminatory conduct. Unpersuaded by the precedent relied upon by the school officials for their claims, the Eleventh Circuit upheld the trial court’s denial of qualified immunity in favor of the employee.

IDEA – Least Restrictive Environment

***C.B. by and through K.B. v. Henry County School District*, --- F.4th ----, 2026 WL 472295 (11th Cir. Feb. 19, 2026)**

This case involves a fourth-grade student with Down syndrome who received an Individualized Education Program (IEP) through special education services at his elementary school. As the student was finishing fourth grade, the IEP team met in the spring and decided to move him from one special education class to a more specialized class designed for students with greater cognitive needs. The IEP team based their decision for the move on the student not meeting the appropriate benchmarks and his need for additional support of services and devices to complete his schoolwork. The student's parents disagreed with the IEP team's decision and alleged the student's rights under the Individuals with Disabilities Act (IDEA) were violated because the new class placement was not the student's least restrictive environment. Following a hearing, an administrative law judge ruled that the school's placement of the student in the more specialized classroom did not violate the IDEA. The trial court upheld this decision, and the parents appealed.

On review, the Eleventh Circuit partially agreed with the trial court's ruling in favor of the school system. The IDEA requires children with disabilities "to the maximum extent appropriate" be educated in the least restrictive environment or "educated with children who are not disabled." 20 U.S.C. § 1412(a)(5)(a) (2018); see 34 C.F.R. § 300.114(a)(2). The Court clarified that the "least restrictive environment" rule applies to whether a student should be placed in a regular education class versus a special education class, not about choosing between different types of special education classrooms. Here, both classes involved in the parents' complaint were special education classes. The Court held the parents could not use the least restrictive environment rule to challenge the student's placement in the other special education class. Based on the evidence, the Court found that the school's IEP team carefully evaluated the student's needs and performance, and it deferred to the school system's judgment that the new specialized class would be more appropriate for the student's needs.

However, the Court reversed the trial court's finding on the mootness of a separate issue involving the student's testing. The state offered an alternative assessment for disabled students in lieu of the standardized test administered to general education classes. Here, the parents alleged the school system violated the IDEA by changing the student's assessment method, where he remained subject to the general standardized test. The trial court dismissed this claim as moot because of later changes issued by the state department of education, determining that the student no longer qualified for the alternative testing. During oral arguments, the school system further claimed that the testing dispute was moot because the student was now in high school and never took the alternative assessment. The parents countered this argument, asserting that the issue was not moot because IEP teams must reconsider assessment choices annually under state law. The Court agreed with the parents, finding the testing issue was not moot because it was a live issue and the student had a legally cognizable interest in the outcome. For these reasons, the Court remanded the case back to the trial court for further review on the testing claim.

Alabama Supreme Court

Students First Act - Tenure

***Smitherman v. Roberts*, --- So. 3d ----, 2026 WL 549270 (Ala. Feb. 27, 2026)**

This case involves an employee who was a tenured teacher from a county school system that accepted another position as a probationary teacher for the Department of Youth Services (DYS). The employee received an email from the superintendent of DHS on September 17, 2019, welcoming him to the job and explaining that his work would begin with mandatory training in early October.

Based on this email, the employee officially resigned from his teaching position with the county school system on September 19, 2019, but he did not report for training or begin receiving pay or benefits from DYS until October 7, 2019. Later in the spring of 2023, DYS gave notice to the employee that his employment would not be renewed. The employee argued that he had worked long enough to earn tenure with DYS by that point and therefore should not have been dismissed without the due process protections provided under the Students First Act. The employee sued DYS, and the trial court ruled in the employee's favor, finding he was tenured since his employment was effective in September 2019 when he accepted the job offer and relied on it by resigning from his prior employment. The trial court found it would be grossly unfair to deny the employee tenure and DYS was estopped from doing so. DYS appealed this decision.

On appeal, the Alabama Supreme Court disagreed with the trial court's ruling. The Court held that, for tenure purposes, employment becomes effective when the employee actually begins working and is paid, not when an agreement to work in the future is made. Here, the Court found the employee did not begin work, training, or receive pay and benefits until October 7, 2019. The Court ruled that his employment was not effective prior to October 1, meaning his first year of teaching in 2019-2020 with DYS did not count as a full school year towards tenure under the Students First Act. The Court also rejected the trial court's conclusion on estoppel, finding no evidence that DYS misled the employee about when his job would begin or how tenure worked. Because of the trial court's erroneous ruling, the Alabama Supreme Court reversed and remanded the case for further proceedings, in favor of DYS.

Attorney General's Opinion

Board Member Compensation

A.G. Op. 2026-017 (March 4, 2026)

This opinion addressed whether members of a city school board may receive reasonable compensation of up to \$900 per month, subject to approval by a majority vote at the board's annual meeting. Alabama law sets the maximum compensation for members of a local school board at \$900 per month, in addition to actual necessary expenses, unless a higher amount is set by a local act and approved by the members of the board. See Ala. Code § 16-1-26(a). Here, there was a conflicting local law, capping the city board's compensation to a lower amount of \$300 per month with a \$400 monthly expense allowance.

The opinion clarified that the statewide law controls and supersedes the local act, and it is legally permissible for the school board to increase its member compensation up to the \$900 monthly limit. The opinion also noted that if the school board votes to increase its compensation, it would receive a total of \$1,300 per month to include the maximum \$900 monthly compensation permitted under state law, in addition to the \$400 monthly expense allowance authorized under the local law. Furthermore, the opinion emphasized that the timing of any increase in compensation needs to comply with the state's constitutional requirement, meaning that any approved increase cannot take effect immediately for sitting board members. The opinion stated that the increase must apply to future terms, or take effect only as members' terms expire, depending on how the board's terms are structured.

Editor's Note: Court Report does not typically include district court cases but given the gravity of the issues presented, we do so here.

Prosecutorial Acts

Sherry Digmon, et. al. v. Stephen Billy, et. al., 2026 WL 823310 (S.D. Ala. Mar. 25, 2026)

A federal court has allowed key claims to proceed in a lawsuit alleging that an Alabama district attorney and sheriff retaliated against school board members following a controversial vote on a superintendent's contract. The court held that prosecutors are immune from lawsuits based on traditional prosecutorial actions, even if those actions are alleged to have been motivated by retaliation. As a result, the court dismissed several claims tied to indictments, impeachments, and arrests, finding the district attorney here was entitled to absolute prosecutorial immunity. However, the court highlighted that prosecutors and law enforcement are not immune when they function as investigators or direct warrantless seizures. The case will now go forward on limited claims focused on whether officials engaged in unlawful investigative conduct.

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