COURT REPORT

Summer 2025

U.S. Supreme Court

First Amendment - LGBTQ+ Storybooks

***Mahmoud v. Taylor*, 145 S.Ct. 2332 (June 27, 2025)**

This case involves a local school board's refusal to allow parental opt-outs from elementary school instruction involving LGBTQ+ storybooks. When the school system had initially introduced the LGBTQ+ storybooks, it permitted parents to opt their children out of instruction related to these books. However, the board later rescinded the opt-out policy, claiming that it was too burdensome for school staff and expressing concerns the policy stigmatized LGBTQ+ students. A group of religiously and culturally diverse parents filed a lawsuit against the school board, asserting the board infringed on their rights to direct the religious upbringing of their children by not allowing opt-outs. The trial court found in favor of the school board, finding no violation of the Free Exercise Clause, and its ruling was upheld by the Fourth Circuit. The parents' group appealed to the U.S. Supreme Court.

On appeal, the Supreme Court overturned the lower court's ruling. The Court reaffirmed a parent's fundamental right to direct the religious upbringing of his children. Here, the LGBTQ+ storybooks combined with the denial of opt-outs, were found to substantially interfere with the religious development of the elementary school students. The Court found the books, along with their instructional use by teachers, posed an objective danger to the free exercise of religion because it presented the children with a set of values and beliefs that conflicted with their parents' religious views, and they exerted psychological pressure on the children to adopt certain viewpoints. The Court rejected the board's argument the storybooks and instruction into the curriculum were "merely exposing" the children to concepts about the LGBTQ+ community. It was also unpersuaded by the board's reliance on *Bowen v. Roy* and *Lyng v. Northwest Indian Cemetery*, which involved government actions that incidentally affected religious practices. These cases dealt with internal government operations, whereas here, public schools interact directly with students and enforce rules, making them subject to First Amendment protections like religious freedom.

Furthermore, the Court disagreed with the Fourth Circuit's finding that the parents' claims lacked sufficient evidence to demonstrate a burden on religious exercise. In First Amendment cases, plaintiffs do not need to wait until harm has actually occurred to bring suit. It was sufficient for the parents to show that a violation of their religious freedom was likely to occur based on the board's stated policies and instructions. The Court's opinion stated public school is a public benefit, and the government cannot make public benefits conditional on individuals giving up their religious rights, by forcing them to accept LGBTQ+ storybooks and instruction. The board failed to show its curriculum and no opt-out policy were narrowly tailored to achieve a compelling governmental interest, thus not surviving the Court's strict scrutiny review. The Supreme Court ruled in favor of the parents' group, reversing and remanding the case for further proceedings.

Equal Protection Clause – Transgender Minors

***United States v. Skrmetti*, 145 S.Ct. 1816 (June 18, 2025)**

This case involves a law enacted in Tennessee prohibiting medical providers from performing surgeries and administering puberty blockers or hormones to minors, for the purpose of either enabling the minor to live as a gender identity inconsistent with their biological sex or to treat distress caused by that incongruence. Three transgender minors, their parents, and a physician, filed suit against the state, asserting Tennessee's law violated the Equal Protection Clause of the Fourteenth Amendment. The trial court partially enjoined enforcement of Tennessee's law after applying intermediate scrutiny, finding it was likely unconstitutional on its face. The Sixth Circuit disagreed and applied a rational basis review, reversing the trial court. The plaintiffs appealed to the U.S. Supreme Court.

On review, the Court considered whether Tennessee's law triggered heightened scrutiny or was subject to a rational basis review. It held the law did not classify on the basis of sex or transgender status, making heightened scrutiny inapplicable. The law incorporated two classifications, age and medical use, not sex. The Court found it prohibited certain treatments concerning gender dysphoria for all minors, regardless of sex. The majority's opinion stated that merely referencing sex was not enough to warrant heightened scrutiny because the law targeted medical uses, not individuals. The Court declined to extend its analysis in *Bostock v. Clayton County* to the issues presented here under the Equal Protection Clause, given that *Bostock* was limited to a Title VII context. The Court ultimately found that Tennessee's law passed rational basis review. Tennessee officials provided a legitimate interest in protecting minors from potentially irreversible and experimental treatments and identified safety concerns, risk of sterility, and psychological harm as reasons for enacting this legislation. Emphasizing judicial deference in areas of medical and scientific uncertainty, the Court affirmed the Sixth Circuit's ruling in favor of the state.

ADA & Rehabilitation Act – Standard for Education Claims

***A. J. T. by and through A. T. v. Osseo Area Schools*, 145 S.Ct. 1647 (June 12, 2025)**

This case involves a female teenage student who suffered from severe disabilities. As an epileptic, the student would frequently experience morning seizures, rendering her unable to attend school before noon. The student's previous school accommodated this with evening instruction to make up for the lost time in the mornings. However, when the student's parents made requests for similar accommodations at the girl's new school, their requests were denied. This resulted in the student having a shortened school day of 4.25 hours compared to the 6.5 hours her non-disabled peers would receive.

The parents filed an Individual with Disabilities Education Act (IDEA) complaint and an administrative law judge ruled in their favor, awarding them with compensatory education for the student. The IDEA decision was affirmed by a federal district court and appellate court. Seeking further remedies, the parents then sued under Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act. The trial court granted summary judgment in favor of the school system, holding that the student failed to prove school officials acted with "bad faith or gross misjudgment." This decision was upheld by the Eighth Circuit, and the parents appealed to the U.S. Supreme Court.

On review, the Court unanimously ruled that school children bringing education-related claims under the ADA and Rehabilitation Act are not required to make a showing of "bad faith or gross misjudgment." This heightened standard originated from previous precedent by the Eighth Circuit, in an attempt to harmonize IDEA and the Rehabilitation Act, but the Court found it was inconsistent with congressional intent. Although the Court did not provide a replacement in lieu of the "bad faith or gross misjudgment" standard, it held that education claims under the ADA and Rehabilitation Act should apply the same legal framework used in other disability discrimination cases. Using these standards, plaintiffs do not have to prove discriminatory intent in order to obtain injunctive relief. But to recover compensatory damages, the plaintiffs must demonstrate intentional discrimination, which is generally satisfied by evidence of "deliberate indifference." The Supreme Court vacated the lower court's ruling and remanded the case for further proceedings.

Establishment Clause – Religious Charter Schools

***Oklahoma Statewide Charter School Board vs. Drummond; St. Isidore of Seville Catholic Virtual School v. Drummond*, 605 U.S. __ (May 22, 2025)**

This case involved two Catholic dioceses who applied to the state's charter school board to establish a religious virtual charter school. The board approved the religious charter school and contracted with the organization. The state's attorney general challenged this decision, claiming it violated the First Amendment. The lower court ruled in favor of the attorney general, holding that the contract between the board and charter school violated the Establishment Clause of the First Amendment, and that the Free Exercise Clause did not prevent the state from rejecting the charter school contract because of the school's religious affiliation. Both the board and charter school appealed. With a short opinion and 4-4 deadlock split among the justices, the Court affirmed the lower court's ruling against the charter school.

Eleventh Circuit Court of Appeals

First Amendment – Transgender Employees

***Wood v. Florida Department of Education*, --- F.4th ----, 2025 WL 1819099 (11th Cir. July 2, 2025)**

This case involves a transgender woman employed as a high school math teacher in Florida. Biologically born as a male, the teacher transitioned into a woman later in life and would utilize "Ms." and "she/her/hers" to affirm her new gender identity inside of the classroom. Then the Florida legislature passed a law prohibiting public school employees from sharing with students any personal titles or pronouns that did not align with their biological sex. The teacher sued, challenging the constitutionality of the state law on the grounds that it violated her First Amendment right to free speech. The trial court ruled for the teacher, finding she spoke as a private citizen on a matter of public concern when using her gender identifiers to interact with students and her personal interest in conveying her identity outweighed the government's interest in maintaining workplace efficiency. The state appealed.

On review, the Eleventh Circuit applied the *Pickering-Garcetti* test for public employee speech which involves two steps. Under this test, an employee must show that (1) in expressing herself, she is speaking as a citizen about a matter of public concern, and (2) her interest in speaking outweighs the state's interest in promoting the efficient delivery of public services. Here, the Court found that the teacher was speaking as a government employee rather than as a citizen. When using her gender-affirming titles and pronouns to identify herself to students, she did so pursuant to her official duties as a teacher. Thus, her speech was government speech falling outside of the First Amendment's protection. The Court distinguished this case from its decision in *Kennedy v. Bremerton School District*, noting how the coach's prayers in *Kennedy* took place outside the scope of his official duties, whereas here, the teacher's classroom speech did not. Because the teacher's claim did not pass the first step of the *Pickering-Garcetti* test, the Court did not address the remaining parts of the test. The Court vacated and remanded the trial court's decision, finding that the lower court had misapplied the law and abused its discretion.

Section 1983 & Substantive Due Process – Parental Rights

***Littlejohn v. School Board of Leon County, Florida*, 132 F.4th 1232 (11th Cir. March 12, 2025)**

This case involves a 13-year-old middle school student who was assigned female at birth but requested to be referred to by a male name and "they/them" pronouns at school. The student's parents did not approve and asked school staff to not call the child different names and pronouns. Despite the parents' instructions, the student confided in the school counselor her desire to socially transition. This led to school officials meeting with the child to create a support plan, without informing or involving the parents. Upon learning about the meeting and support plan, the parents contacted the school. They were told by administrators that parental involvement required the child's consent, and the child was protected under non-discrimination laws. The parents sued the school board, asserting that their substantive due process and privacy rights under federal and state law had been violated. The board filed a motion to dismiss, which was granted by the trial court. Among other reasons, the trial court had determined dismissal was proper because the school's actions did not "shock the conscience" nor violate the parents' rights. The parents timely appealed.

On appeal, the Eleventh Circuit discussed how it applies distinct legal standards in cases where either executive actions or legislative actions violate a person's substantive due process rights. For executive actions, the Court uses the "shocks the conscience" test. Here, the Court determined that the school's actions were executive. The school's decision to create a support plan and allow the student to transition at school only affected a limited class of persons, thus making it an executive action. As such, the Court analyzed whether the school's actions "shocked the conscience", citing that only the most egregious conduct meets this standard. The Court concluded that the school's actions here did not "shock the conscience." The school did not force the student to attend the support plan meeting nor pressure the student to socially transition. Rather than act with an intent to injure, the school did the contrary and aimed to support the child. The school officials' conduct was not egregious and therefore failed to "shock the conscience." The Eleventh Circuit upheld the trial court's ruling in favor of the school.

Individuals with Disabilities Education Act - FAPE

***I.S. by and through M.S. v. Fulton County School District*, 2024 WL 4635026 (11th Cir. October 31, 2024)**

This case involves a disabled student who was diagnosed with autism and several other emotional disorders. Because of these issues, the student qualified for special education services under the Individuals with Disabilities Education Act (IDEA), but he often refused to go to school. His parents eventually withdrew him from public school and enrolled him in a private school. At the beginning of the 2016-2017 school year, the student still struggled with poor attendance and refused to go to school. The school system convened multiple meetings with the parents, public school staff, and private school staff, to discuss the student's individualized education program (IEP). The IEP team ultimately crafted a gradual reintegration plan to get the student to return to school.

In the meantime, the schools offered multiple resources to the student's parents including a certified teacher for home instruction, course materials, and optional counseling services. However, the parents grew worried about their student's poor academic progress. They claimed that the school's IEP for the child was inadequate, and they withdrew the student and enrolled him in an out-of-state residential therapeutic school. The parents filed an administrative complaint under IDEA against the school system, seeking to obtain reimbursement for the residential therapeutic school's tuition and fees. The administrative law judge (ALJ) ruled against the parents, finding the student's IEP appropriate. The federal district court upheld the ALJ's decision, and the parents appealed.

On review, the Eleventh Circuit addressed the issue of whether the public school failed to provide a Free Appropriate Public Education (FAPE) under IDEA. The parents alleged procedural violations under IDEA, asserting that there was predetermination regarding the student's school placement, and the school did not give them a revised IEP or behavioral plan or assessment for their child. The Court disagreed and concluded that none of the school officials predetermined the child's placement because the school remained open to parental input. The parents were given significant opportunity for participation in the child's IEP process and were considered and heard by school officials. As to the school's failure to revise the IEP or provide a behavioral plan or assessment, the Court found there was no substantive harm nor did it impact the parent's participation. The school's informal plan and communication relating to the student's reintegration was sufficient.

The parents further argued that the child's IEP was deficient because it provided only home instruction and lacked sufficient academic and therapeutic support. The Court held the record contradicted the parents' arguments. The IEP never placed the student at home, but rather it named the private school as the student's school placement. Additionally, the academic and therapeutic support were temporary measures and resources offered by school officials to help the student return to class. The parents declined access to these services and withdrew the student before the plan could be fully implemented. The Court found that the school's IEP was appropriate and reasonably calculated to help the student make progress. The parents did not allow the school enough time to implement the plan before abruptly withdrawing the student to a new school. As a result, the Eleventh Circuit affirmed the lower court's ruling, finding that the school offered a free appropriate public education to the student.

Teacher Accountability Act – Principal Termination

***Pinson v. Chilton County Board of Education*, --- So.3d ----, 2025 WL 495918 (Ala. Civ. App. February 14, 2025)**

This case involves a principal's appeal following his termination by the board for failure to perform duties in a satisfactory manner and other good and just cause. The principal requested an expedited nonjury evidentiary hearing under the Teacher Accountability Act, which took place two days beyond the statutory 45-day window set forth by Section 16-24B-3(e)(3). The evidence presented against the principal at the hearing included multiple instances of unprofessional behavior, a tense working relationship with the superintendent, allegations of sexual misconduct toward his coworkers, and false information on his employment application. The board's vote to terminate his employment was based on these findings. The trial court ruled for the school board, finding the board's decision to cancel the principal's contract was not personally or politically motivated, but rather for good cause. The principal appealed.

On review, the Court upheld the trial court's decision to terminate the principal's contract. It found that the school board had canceled the contract solely for cause and not political or personal bias. The Board met its burden under the Teacher Accountability Act by demonstrating the principal's misconduct. The Court of Civil Appeals also addressed the procedural challenges raised by the principal, related to the hearing delay and the superintendent's use of an outside investigator. The Court found the delay and outside investigation did not impact its jurisdiction nor were the principal's rights violated. The Court refused to consider the principal's claim that his contract had been automatically extended due to the lack of an annual performance evaluation, and it affirmed the trial court's ruling.

Teacher Accountability Act – Principal Termination

***Colbert County Board of Education v. Satchel*, --- So.3d ----, 2025 WL 496485 (Ala. Civ. App. February 14, 2025)**

This case involves the termination of a principal. The superintendent had recommended cancellation of the principal's contract for willful failure to comply with board policy and other good and just cause. The principal was terminated following a board hearing. He was notified by a letter of the board's decision on the same day, but the letter did not contain the reasons for the termination. Per the Teacher Accountability Act, the principal requested a nonjury expedited evidentiary hearing, and the trial court entered an order in the principal's favor. The trial court found the board failed to provide the principal with proper notice and did not meet its burden in showing that the principal willfully violated the board's policy. The school board timely appealed this decision.

On appeal, the board argued the trial court erred by (1) holding a trial de novo instead of an expedited evidentiary hearing, (2) reversing the principal's termination despite the principal's stipulation that it was not politically or personally motivated, and (3) improperly excluding testimony from board members concerning their reasons for termination. Setting these arguments aside, the Court of Civil Appeals cited the board's briefing failures both procedurally and substantively. The board failed to address, in its initial opening brief, the trial court's findings regarding the issues of improper notice and failure to demonstrate the principal's willful violation of board policy.

This, along with the absence of citations to legal authority for support, led the appellate court to affirm the trial court's decision in favor of the principal.

AASB participated in the case at the appellate level as an amicus curiae ("friend of the court") and raised arguments on the issue of notice. However, the Court of Civil Appeals refused to take AASB's arguments into account because arguments raised by amicus curiae or in the board's reply briefs could not cure deficiencies in the opening brief. As a result, the trial court's decision invalidating the principal's termination was upheld.

Attorney General's Opinions

Secondary Schools – Athletic Trainers

A.G. Op. 2025-041 (July 22, 2025)

This opinion addressed what types of schools qualify for grants under the Athletic Trainer Secondary School Incentive Program. The law sets forth that "[a] local board of education may apply for a grant from the incentive program if, during the academic school year, an athletic trainer provided an average of at least 25 hours of athletic training services per week to a rural secondary school or Title I secondary school under the purview of the local board of education." Ala. Code § 34-40-33(a). A secondary school is defined as "any rural, 1A, 2A, 3A, or Title I schools providing education to students in sixth through twelfth grade…" Ala. Code § 34-40-31.

Thus, a school is eligible for grants for athletic trainers if it serves students in grades six through twelve and if it is either a rural school or Title I school. Secondary schools that are classified as 1A, 2A, or 3A would only qualify for the grants if they are also a rural school or Title I school.

State Department – Excess of Tax Receipts

A.G. Op. 2025-033 (May 13, 2025)

This opinion addressed whether the State Department can "charge back" excess funds to a local school board when the tax receipts the board receives from the required local effort exceed the board's Foundation Program amount, and if the State Department can use those excess funds to cover shortfalls in other school systems. In 2023, a city school board's required local effort exceeded the cost of the board's Foundation Program amount that fiscal year by $4.6 million, due to the city's high property values and relatively low student count.

Here, the Attorney General's Office concluded that there was no constitutional or statutory authority for the State Department or State Superintendent to redirect excess funds from the required ten mills from one school system to another. Furthermore, the state's constitution prohibits the use of funds levied in one district for another and mandates that special school taxes levied in a district be used exclusively for that same district. Ala. Const. art XIV, § 269.03 (amend. 3). Given that, the State Department of Education may not "charge back" a local school board for the excess in future years. When a school system collects more in the required local effort than the school system's Foundation Fund Program allocation, then the school system is permitted to keep the excess.

State Magnet Schools – State Audits

A.G. Op. 2025-006 (October 21, 2024)

This opinion addressed whether the state's three public magnet schools were exempt from maintaining their assets in the Office of the State Auditor's asset management system and from its audits under state law. Here, the State Auditor's Office maintained all personal property belonging to the state's three public magnet schools in its database, and it would carry out property audits of these schools every two years. Certain educational institutions are exempt from these requirements, but it was unclear if the education exemption applied to these schools.

Ala. Code § 36-16-11 identifies what property is exempt from the State Auditor's inventory and property control requirements as "property owned or used by, or in connection with, or under control of, all public schools, universities, colleges, [and] trade schools…" The state's magnet schools were being treated as state agencies by the State Auditor's Office instead of as public schools because they were independent and not regulated by a city or county school board. However, the Attorney General's Office had issued a previous opinion regarding one of the three magnet schools where it deemed that the magnet school was still a public school despite not being governed by a local school board. Since the state's other two magnet schools were created and operate as the same kind of entity as the one cited in the opinion, all are considered to be public schools. Therefore, the educational exemption from the State Auditor's Office requirements apply to all the state's magnet schools.

Charter Schools – Governing Boards

A.G. Op. 2025-003 (October 21, 2024)

This opinion addressed four questions related to charter schools. The first issue was whether a governing board may hold charters for two public charter schools located in different areas. Here, a governing board applied to the state's Public Charter School Commission to launch a second start-up charter school in the state's capital after already holding a charter contract for another charter school in a different city. Under the Charter School Act, governing boards are permitted to hold one or more charter contracts. Ala. Code § 16-6F-9(a)(4). When a single governing board oversees multiple schools, it is "required to report their performance as separate, individual schools, and each school shall be held independently accountable for its performance." Ala. Code § 16-6F-8(a)(6). Absent any geographical limitations, a single governing board may hold charter contracts for multiple schools in different areas of the state.

The second issue highlighted whether a governing board is required to have members that represent 20 percent of each public charter school it oversees. Ala. Code § 16-6F-4(10) prescribes that "[a] governing board shall have at least 20 percent of its membership be parents of students who attend or have attended the public charter school for at least one academic year." Based on this requirement, the state legislature's intent was to enhance parental involvement and ensure representation of each school. As such, a governing board is indeed required to have members who represent 20 percent of each charter school it regulates.

The third issue discussed whether administrative employees of the governing board could perform work for more than one public charter school. While the Charter School Act allows a governing board to oversee multiple charters, the opinion emphasizes how it does not impose any requirement for a board to hire additional staff for each charter school it may oversee. Therefore, administrative staff employed by a governing board may work for more than one charter school

because they are not considered to be working multiple jobs, rather they are performing a single role of assisting the board in the oversight of multiple schools.

Lastly, the fourth issue was whether the chairperson of a charter school's governing board could simultaneously serve on the board of directors of the charter school's education service provider. The Attorney General's Office discussed how the Charter School Act does not restrict a member from dually serving as the chairperson of a governing board and on the board of directors of an education service provider for the charter school, provided that there is no financial relationship between the member and education service provider.

Teachers – Dual Employment

A.G. Op. 2025-002 (October 17, 2024)

This opinion addressed whether a full-time salaried public-school teacher employed by a local school board may work as a part-time adjunct professor for a community college. The opinion noted that whenever community colleges hire qualified teachers from local public schools to work as adjunct instructors, it is typically under a contractual basis for a temporary part-time position with hourly pay. In this kind of circumstance, the teacher remains a full-time school system employee with salary and benefits, while also receiving part-time compensation from the community college for adjunct teaching.

Ala. Code § 36-6-3 states that "[w]herever the duties of more than one office, position, or employment shall be filled, performed or discharged by one officer or employee, such officer or employee shall only receive the salary named for the highest paid office, position, or employment so filled, performed or discharged." The opinion discussed how this only relates to full-time salaried employees and officers. The term "employee" is defined under § 36-6-1 as (1) Everyone in the classified, exempt, or unclassified service of the state as defined in Section 36-26-10; (2) Legislative personnel, officers and employees, Legislative Reference Service personnel, and Legislative Fiscal Office personnel; (3) All court officials and employees of the Unified Judicial System serving the trial courts; (4) Employees of the administrative office of courts paid on a biweekly basis; and (5) All hourly personnel who are considered to be permanent employees.

Given these definitions, public school employees are not considered "employees" under Ala. Code § 36-6-1, according to the Attorney General. Therefore, Section 36-6-3 is not applicable to full-time salaried teachers employed by local school boards. The opinion concluded that such teachers are permitted to hold part-time employment at community colleges as adjunct professors and receive compensation for both positions.

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