

PANC FALL CONFERENCE
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**CASE LAW UPDATE:
RECENT DECISIONS IN EDUCATION
LAW**

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**NCAE v. State of North Carolina, 786
S.E.2d 255 (N.C. 2016) [4/15/16]**

Holding: North Carolina Supreme Court unanimously rules that statutory removal of career status from teachers is unconstitutional as a violation of the Contract Clause of the United States Constitution.

Ragland v. Nash-Rocky Mount Board of Education, 786 S.E.2d 422 (N.C. App. 2016) [6/7/16]

Holding: Teacher was properly dismissed for stripping off his shirt in preparation to fight a student, and for stroking a female student's hair.

Harmon v. Cumberland Board of Education, ___ F. Supp. 3d ___, 2016 WL 2599115 (E.D.N.C. 2016) [5/5/16]

Holding: Teacher's advocacy for disabled students is not protected activity for purposes of Title VII retaliation claim.

**Griffith v. Caney Valley Public Sch., ___
F.Supp.3d ___, 2016 WL 67719 (N.D.
Okla. 2016) [1/5/16]**

Holding: School's prohibition of a Native American student from wearing a feather in her graduation cap did not violate her free speech and free exercise rights, even though wearing a feather bore religious significance.

**Sagehorn v. Independent Sch. Dist. 728,
122 F.Supp.3d 842 (D.Minn. 2015)
[8/11/15]**

Holding: High school student stated a valid free speech claim after officials suspending him for an online comment he jokingly posted off-campus about making out with a teacher. The school district subsequently settled for \$325,000 including \$40,000 damages and the rest attorney fees.

T.V. by Victor v. Beukelman, No. 2:15-CV-02163-JAM-CKV (E.D.Ca. 2016) [2/22/16]

Holding: School board settles lawsuit by paying \$1 nominal damages and \$63,000 attorney's fees to student who had been prohibited from wearing a t-shirt stating "Nobody Knows I'm a Lesbian".

Heffernan v. City of Paterson, NJ, ___ U.S. ___, 136 S.Ct. 1412 (2016) [4/26/16]

Holding: First Amendment protects police officer from retaliation for suspected political speech, even though police officer had not actually engaged in the political activity he was believed to have engaged in.

**Munroe v. Central Bucks Sch. Dist., 805
F.3d 454 (3rd Cir. 2015) [9/4/15]**

Holding: A teacher's derogatory comments about her students posted on her publicly accessible blogsite was not constitutionally protected speech under the First Amendment.

**Brown v. Chicago Board of Education,
824 F.3d 713 (7th Cir. 2016) [6/2/16]**

Holding: Board of Education's suspension of teacher for using the "N" word during classroom discussion of why such words were hurtful was "stupid but constitutional."

Coomes v. Edmonds School District No. 15, 816 F.3d 1255 (9th Cir. 2016) [3/23/16]

Holding: Middle school teacher's communications with parents and administrators about school's failure to implement IEPs and mismanagement of special education program were not made in her capacity as private citizen and thus were not protected by First Amendment.

Barrett v. Walker County School District, 4:15-CV-0055-HLM (N.D.Ga. 2016) [4/4/16]

Holding: Rule that speakers in public comments portion of school board meeting cannot make personal complaints about school personnel is unconstitutional.

**Jackson v. Ladner, 626 Fed.Appx. 80
(5th Cir. 2015) [9/15/15]**

Holding: Upon receiving information that a student was sending threatening messages online to another student, school officials' actions of accessing the student's social networking account and suspending her from the high school cheerleading squad were protected by qualified immunity.

**State of Iowa v. Lindsey, 881 N.W.2d 411,
2016 WL 3450365 (Iowa 2016) [6/24/16]**

Holding: Student's suspicious comments about his school-provided equipment bag justified search of the bag which contained loaded firearm and drug paraphernalia.

**In re Rafael C., 245 Cal. App 4th 1288, 200
Cal. Rptr. 305 (Ct. App. Cal. 2016)
[4/21/16]**

Holding: Warrantless search of student's cell phone was justified where school officials had reasonable basis to believe student was using the phone to communicate with another student about a firearm.

**A.G. v. Paradise Valley Unified School
Dist. No. 69, 815 F.3d 1195 (9th Cir. 2016)
[3/3/16]**

Holding: Fact that student's parents consented to student's placement at private school did not bar student's claim that her placement violated § 504 and Title II of the ADA.

S.B. v. Board of Education of Harford County, 819 F.3d 69 (4th Cir. 2016) [4/8/16]

Holding: “Deliberate indifference” is the standard for school board liability for student on student disability-based harassment; “bad faith or gross misjudgment” is the standard for school board liability for its own conduct in not providing an appropriate education to disabled students.

Walls v. Pitt County Board of Education, 2015 WL 4994259 (E.D.N.C. 2015) [8/19/15]

Holding: Summary judgment is granted in favor of the school board on teacher’s Title VII claims for race discrimination and retaliation, because suspension with pay and transfer to another school do not constitute adverse employment action.

G.G. ex rel. Grimm v. Gloucester Cnty. Sch. Bd., 822 F.3d 729 (4th Cir. 2016) [4/19/16]; 136 S.Ct. 2442 [8/3/16]

Holding: Supreme Court stays Fourth Circuit decision on transgender student's use of bathroom.

Hinton v. Virginia Union University, ___ F.Supp.3d ___, 2016 WL 22621967 (E.D. Va. 2016) [5/5/16]

Holding: Virginia federal district court holds that Title VII does not protect against discrimination based on sexual orientation; written reprimand without collateral consequences is not sufficiently adverse action to support Title VII discrimination or retaliation claims.

Times News Publishing Co. v. Alamance-Burlington Board of Education, 774 S.E.2d 922 (N.C.App. 2015) [7/21/15]; Alamance County Superior Court No. 14-CVS-2033 (Alamance Superior Court 2015) [12/14/15]

Holding: On remand, trial court determines that vast majority of challenged minutes of closed sessions of the Alamance-Burlington Board of Education were properly redacted as confidential personnel information or attorney-client privileged discussions.

Freedom from Religion Foundation v. Concord Community Schools, 148 F.Supp.3d 727 (N.D. Ind. 2015) [12/2/15]

Holding: School district's inclusion of a live nativity scene in its annual holiday program was enjoined as a likely violation of the Establishment Clause.

Silver v. Halifax County Board of Commissioners, Halifax County Superior Court No. 15 CVS 767 (2016) [1/28/16]

Holding: Superior Court Judge dismisses complaint alleging that maintenance of three separate school districts in Halifax County by defendant Halifax County Board of Commissioners violates county students' right to receive a sound basic education.

Raleigh Wake Citizens Association v. Wake County Board of Elections, _____ F. 3d ____, 2016 WL 3568147 (4th Cir. 2016) [7/1/16]

Holding: Fourth Circuit holds that 2013 legislative redistricting plan for the Wake County Board of Education violates "one person, one vote" constitutional mandate.

**North Carolina State Board of Education
v. State of North Carolina, Wake County
Superior Court No. 14 CVS 14791 [7/2/15]**

Holding: Wake County Superior Court rules that State Board of Education, as a constitutional entity, is not subject to rule-making process established by the General Assembly for state agencies. Oral argument before the Court of Appeals on August 9.

**Richmond Cnty. Bd. of Educ. v. Cowell,
776 S.E.2d 244 (N.C. App. 2015) [9/1/15]**

Holding: \$50.00 dollar surcharge imposed on all individuals convicted of improper equipment offense is a “penalty” within the scope of N.C. Constitution Article IX, Section 7(a), and must be paid to the local board of education. The statutory requirement that the surcharge be paid to a county jail fund was unconstitutional.

State of North Carolina v. Bishop,
___ N.C. ___, 787 S.E.2d 814 (N.C. 2016)
[6/10/16]

Holding: North Carolina criminal statute prohibiting cyber-bullying of minors, G.S. §14-458.1, is unconstitutionally overbroad.

Lund v. Rowan County, ___ F. 3d ___,
2016 WL 4992499 (4th Cir. 2016) [9/19/16]

Holding: The Board of County Commissioners' practice of opening meetings with sectarian, non-proselytizing, non-disparaging prayers by individual commissioners does not violate the Establishment Clause. (NOTE: This was a 2-1 decision. Plaintiffs are planning to file a request for the entire Fourth Circuit to reconsider this decision.)

THE END