



## Washington School Law Update

*A brief summary of legal developments relevant to Washington public school districts from the previous calendar month.*

### United States Supreme Court

#### Title IX / Equal Protection

*West Virginia v. B.P.J.*

No. 24-43 (6/30/26)

The U.S. Supreme Court upheld West Virginia and Idaho laws restricting participation of transgender athletes from female sports teams, holding that the sex-based classifications in the laws complied with Title IX of the Education Amendments of 1972 (Title IX) and the Equal Protection Clause of the Fourteenth Amendment (Equal Protection Clause). In 2021, West Virginia passed the Save Women's Sports Act, which categorically excludes transgender girls and women from participating in sports designated for female students. The law's express purpose is to prevent transgender girls from participating on female sports teams, and it specifies that "sex is determined by biology." In 2020, Idaho enacted the Fairness in Women's Sports Act, which similarly prohibits transgender athletes from participating in female athletic programs, and which also defines sex as "determined by biology." West Virginia and Idaho both asserted that the restrictions were necessary to further the important state interests of ensuring safety

and competitive fairness for female athletes. B.P.J. is a transgender girl residing in West Virginia who began receiving puberty-delaying treatment when she was approximately 10 years old. When West Virginia enacted the ban, B.P.J. was nearing the end of fifth grade and preparing to enter middle school. B.P.J. wished to join her school's girls' track team and run cross country, but she was informed she could not participate because of West Virginia's law. Hecox is a transgender woman who began taking hormone therapy in college, where she attends Boise State University in Idaho. Hecox competed in her university's women's club soccer team and has previously tried out for women's Division I track and cross-country teams, but she was precluded from continuing to do so when the Idaho law went into effect. Both B.P.J. and Hecox initiated lawsuits challenging their states' bans on transgender athletes, with B.P.J. asserting violations of Title IX and the Equal Protection Clause and Hecox asserting only violation of the Equal Protection Clause. The Fourth Circuit (which covers West Virginia) and the Ninth Circuit (which covers Idaho) both held in favor of the plaintiffs, with the Ninth Circuit affirming a preliminary injunction that prevented the Idaho law from being enforced. West Virginia and Idaho both sought review, which the U.S. Supreme Court granted, consolidating the cases. On review, the U.S. Supreme Court reversed the Fourth Circuit and Ninth Circuit decisions, holding that the West Virginia law did not

violate Title IX and that neither law violated the Equal Protection Clause. The Court first considered the legislative history of Title IX and its amendments, which provide that no person “on the basis of sex” shall be excluded from educational programs or activities receiving federal financial assistance. The Court held that the legislative history of Title IX and its implementing regulations—which date back to the 1970s—make clear that the term “sex” referred to “biological sex.” As a result, the Court held that Title IX allowed West Virginia to maintain separate sports teams for male and female athletes and to define male and female based upon sex identified at birth. As to the Equal Protection claims, the Court held that both laws clearly classify by sex on their face, and therefore, are subject to intermediate scrutiny—meaning the laws are permissible only if the sex-based classification is “substantially related” to achieving an “important” government objective. The Court held that the states readily met that burden given the unique context of sports, which historically maintain separate men’s and women’s teams, and which universally recognize inherent physical differences between women and men. The Court held that states need not conduct individual-by-individual comparison of the physical and athletic capabilities of all transgender female athletes, nor do they need to make exceptions for transgender female athletes who have undergone hormone therapy, in order to satisfy intermediate scrutiny. Justice Sotomayor, joined by Justices Kagan and Jackson, concurred in the judgment in part and dissented in part, writing that the Equal Protection claims could not yet be decided because there remained unresolved factual questions regarding the impact of gender-affirming treatment and athletic advantage, which the states would need to address in order to meet their burden of showing that the restrictions were necessary to ensure safety and competitive fairness in women’s sports.

## Ninth Circuit Court of Appeals

### Employment Discrimination

*Brown v. Alaska Airlines, Inc.*

No. 24-3789 (6/24/26)

The Ninth Circuit Court of Appeals reversed dismissal of an employment discrimination lawsuit brought by two flight attendants against their employer, Alaska Airlines (Alaska), holding that the case presented a genuine dispute of material fact as to whether the employees were terminated because of their religious beliefs. Marli Brown and Lacey Smith are Christians who were flight attendants at Alaska. In February 2021, Alaska posted an announcement on its internal employee communications network expressing support for the Equality Act—proposed federal legislation that extends nondiscrimination protections based on sex, sexual orientation, and gender identity. In response, Brown posted a comment questioning whether Alaska supports “endangering the Church, encouraging suppression of religious freedom, obliterating women rights and parental rights.” Smith posted a comment asking, “As a company, do you think it’s possible to regulate morality?” Alaska investigated the comments and fired both women for violating its zero-tolerance policy against “harassment or discrimination of any kind.” Brown and Smith filed a lawsuit against Alaska alleging that their termination constituted religious discrimination in violation of Title VII of the Civil Rights Act of 1964, Washington Law Against Discrimination (WLAD), and Oregon’s Unlawful Discrimination in Employment law. The district court granted summary judgment to Alaska, dismissing Brown and Smith’s Title VII and state law claims. Plaintiffs appealed, and the Ninth Circuit reversed, holding that a reasonable jury could conclude—based on direct and circumstantial evidence—that Alaska used its employee policies as a pretext to fire Brown and Smith on the basis of their religious beliefs. The Court reasoned that Brown’s post referencing the “Church” and religious freedom was self-evidently religious. Even though Smith’s comment was not expressly religious, the Court reasoned that a jury could conclude religious animus

because Alaska handled Smith’s case in a unique connection with Brown’s case, investigating them together. As a result, the Court reversed the district court’s grant of summary judgment and remanded the case for further proceedings. Judge Christen dissented in part, agreeing that the federal and state law discrimination claims involving Brown should proceed to trial, but concluding that the evidence was insufficient for a reasonable jury to conclude that Alaska terminated Smith because of her religion.

## Washington Court of Appeals

### **Mandatory Reporting**

*Satterwhite v. Bethel School District No. 403*  
No. 59753-5-II (6/9/26) (unpublished)

The Washington Court of Appeals affirmed a jury verdict finding Bethel School District (BSD) not liable for negligence when one of its employees intentionally failed to report suspected child abuse of her younger sister. In May 2021, L.B., a fifth-grade student, transferred to Bethel Virtual Academy (BVA), a virtual and online school in BSD. L.B.’s older sister, Eunissa Jackson, worked as a teacher for BVA, though she was not L.B.’s assigned classroom teacher. L.B. frequently stayed at Jackson’s apartment to do schoolwork with Jackson’s assistance. Jackson’s fiancé, who shared the apartment, repeatedly molested and eventually raped L.B. Although L.B. disclosed the abuse to Jackson multiple times, and Jackson also witnessed one inappropriate incident, Jackson directed L.B. to keep quiet and blamed L.B., actively protecting her fiancé from going to jail. L.B. reported the abuse to her mother, Stacy Satterwhite, in October 2021, which eventually resulted in Jackson’s fiancé pleading guilty to rape of a child in the first degree. Satterwhite sued BSD for negligence, arguing that the district was liable for Jackson’s failure to report under Washington’s mandatory reporting statute, RCW 26.44.030. At trial, BSD argued that Jackson made a conscious, intentional decision to conceal the abuse for personal reasons, acting contrary to BSD’s interests and therefore, outside the scope and course of her employment. The trial court instructed the jury that a mandatory reporter’s statutory duty to report child abuse requires

some connection between their professional identity as a school employee and the circumstances in which they learn of the abuse. The jury returned a verdict finding that BSD was not negligent. Satterwhite appealed, and the Court of Appeals affirmed. The Court first rejected Satterwhite’s challenge to the jury instructions, reasoning that because the parties agreed that Jackson was a mandatory reporter, the dispositive issue for the jury was whether she was acting within the scope of her employment when she covered up the abuse. Without deciding the accuracy of the jury instruction, the Court held that it did not prejudice Satterwhite, as she was able to thoroughly argue her theory of the case. The Court further held that the trial court properly allowed BSD to cross-examine Satterwhite’s expert witness regarding whether Jackson acted outside her job responsibilities, holding that whether an employee’s conduct is within the scope of employment is a factual question upon which the expert witness could testify. As a result, the Court affirmed the jury verdict and the denial of the motion for a new trial.

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### July Masthead Photo Credit



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