

History of Title IX Case Law:

Canon v. University of Chicago (1979) set a precedent in granting private rights of action.

Alexander v. Yale University (1980): first sexual harassment case which involved students and faculty; sexual harassment found to constitute sex discrimination under Title IX.

Franklin v. Gwinnett Public Schools (1992) found that monetary awards for punitive and compensatory damages can be awarded in cases of sexual harassment.

Nabozny v. Podlesny (1996, U.S. Court of Appeals, 7th Circuit): ruled in favor of student who was subjected to anti-gay harassment.

Henkle v. Gregory (1995, U.S. Court of Appeals, 7th Circuit) decided in student's favor on anti-gay peer harassment. Prior to the settlement decision, the district offered to pay damages including Henkle's attorneys' fees and court costs. Part of the settlement included that the district revise their policy on harassment, that they train students and staff on harassment, and that they acknowledge students' freedom to discuss their sexual orientation.

Gebser v. Lago Vista Independent School District (1998): a school's "actual knowledge" and "deliberate indifference" were required to impose liability on a school district.

Davis v. Monroe County Board of Education (1999): the court first *explicitly* addressed the issue of school liability for *peer* sexual harassment.

Monroe Standard:

1. School officials have *actual knowledge* of the harassment
2. School officials demonstrate *deliberate indifference* to harassment or take actions that are *clearly unreasonable*
3. School officials have substantial control over both the harasser and the context in which the harassment occurs
4. The harassment is so *severe, pervasive, and objectively offensive* that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school

Montgomery v. Independent School District No 709 (2000) gender non-conformity behavior decided in favor of students.

Doe v. Brockton School Comm (2000) Transgender youth in schools, school liable for placing restrictions on student dress (sex discrimination).

Ray v. Antioch Unified School District (2000, California Northern District Court) found that harassment based upon a student's perceived sexual orientation is a form of sexual harassment.

Schroeder v. Maumee Board of Education (2003, Ohio Northern District Court), using Title IX protections, school was liable for showing deliberate indifference to the verbal and physical

harassment of a student who demonstrated advocacy for gay students in the school; targeting a person for harassment based upon perceived sexual orientation based upon gender stereotyping is a form of sex discrimination.

Flores v. Morgan Hill (2003, 9th circuit), school district was required to revise its policies to explicitly prohibit harassment and discrimination based on sexual orientation and gender.

Doe v. Bellefonte School District (2004) gender non-conformity, serves as a model for how schools should respond in cases of harassment (this case decided in school's favor)

Jackson v. Birmingham Board of Education (2005) covers retaliation, and retaliation of those in non-protected classes.

Theno v. Tonganoxie Unified School District (2005). Student subjected to persistent and severe verbal anti-gay harassment (gender identity harassment). Student awarded \$440,000

Patterson v. Hudson Area Schools (2009, U.S. Court of Appeals, 6th Circuit): School districts can be held liable for "deliberate indifference" to peer sexual harassment based upon sexual orientation, real or perceived. Plaintiffs' son was harassed by other students, beginning sixth grade which ultimately resulted in sexual assault. The district was aware that the verbal reprimands of a few students were not stopping the overall harassment.

J. L. v. Mohawk County (2010, Northern District of New York, out of court settlement) federal prosecutors used Title IX in order to broker a settlement in a lawsuit brought by a gay teen against his Mohawk, New York school district. The high school student in this case was bullied for acting effeminate. School officials knew about the problem and refused to intervene. One teacher allegedly told the student to hate himself every day until he changed. The school district has agreed to pay \$50,000, legal fees, and the cost of therapy. The district will also put staff through anti-harassment training, retain an expert on harassment and discrimination to review policies and procedures, etc.