



2026 Annual Conference

June 29 – July 2, 2026

Supreme Court Update with Dean Erwin Chemmerinsky

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SUPREME COURT UPDATE WITH DEAN ERWIN CHERMERINSKY¹

June 29 – July 2, 2026

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¹ This document was last updated June 29, 2026.

I. October Term 2025: Decided Cases

Trump v. Slaughter, 609 U.S. ____ (2026) (Certiorari Granted Sept. 22, 2025; Argued Dec. 8, 2025; Decided Jun. 29, 2026)²

Issue:

Whether statutory restrictions permitting the President to remove Federal Trade Commission commissioners only for “inefficiency, neglect of duty, or malfeasance in office” violate the separation of powers by unconstitutionally restricting the President’s Article II removal authority, and whether a federal court may order the reinstatement of a removed federal officer.

Summary:

Rebecca Kelly Slaughter, a Democratic member of the Federal Trade Commission (FTC), challenged President Trump’s decision to remove her before the expiration of her statutory term. The Federal Trade Commission Act permits the President to remove FTC commissioners only for “inefficiency, neglect of duty, or malfeasance in office.”³ Slaughter argued that because the President did not invoke any of those statutory grounds, her removal violated federal law and the Supreme Court’s decision in *Humphrey’s Executor v. United States*, which upheld Congress’s authority to limit the President’s removal of FTC commissioners.⁴ The district court granted summary judgment for Slaughter, declared her removal unlawful, and ordered her reinstatement as an FTC commissioner.⁵ After the Supreme Court stayed the order, it granted certiorari before judgment to resolve the constitutional challenge to the FTC’s removal protections.

In a 6-3 decision, the Supreme Court reversed, holding that the FTC’s statutory for-cause removal protections violate the separation of powers because the Commission exercises substantial executive power and its commissioners therefore must remain subject to the President’s supervision and removal. In an opinion authored by Chief Justice Roberts, the Court concluded that Article II’s Vesting and Take Care Clauses, together with the Constitution’s history, structure, and the Court’s removal-power precedents, establish that executive officers exercising substantial executive power must remain removable by the President at will in order to preserve democratic accountability. The Court explained that *Humphrey’s Executor* rested on the premise that the FTC exercised only “quasi-legislative” and “quasi-judicial” functions rather than executive power, a distinction the Court concluded is incompatible with both the FTC’s modern responsibilities and the Court’s current understanding of Article II. The Court therefore held that the FTC’s removal restrictions are unconstitutional and that, to the extent *Humphrey’s Executor* remains inconsistent with that conclusion, it is overruled. The Court emphasized, however, that it was not deciding whether similar protections remain permissible for entities that do not exercise executive power, such as the Federal Reserve, or for judges serving on non-Article III courts.

² *Trump v. Slaughter*, 609 U.S. ____ (2026).

³ Federal Trade Commission Act, ch. 311, § 1, 38 Stat. 717, 718 (1914) (codified as amended at 15 U.S.C. § 41).

⁴ *Humphrey’s Ex’r v. United States*, 295 U.S. 602 (1935).

⁵ *Slaughter v. Trump*, No. 25-909 (LLA), 2025 WL 1984396 (D.D.C. July 17, 2025).

Significance:

This decision marks one of the Court’s most significant separation-of-powers rulings in decades, substantially expanding presidential authority over independent federal agencies by holding that Congress generally may not shield officials exercising substantial executive power from at-will presidential removal. In doing so, the Court effectively overrules the 91-year-old precedent set in *Humphrey’s Executor*’s constitutional foundation for protecting FTC commissioners from removal and reinforces its recent decisions emphasizing the President’s control over the Executive Branch. Although the Court expressly declined to decide whether similar removal protections remain constitutional for certain other entities, including the Federal Reserve and non-Article III adjudicative bodies, the decision is likely to prompt renewed constitutional challenges to removal protections governing officials at other independent agencies. For colleges and universities, the ruling could have significant implications for the leadership, policy direction, and enforcement priorities of agencies that regulate or affect higher education, including those responsible for antitrust, labor, employment discrimination, securities, and communications law.

Chatrie v. United States, 609 U.S. ____ (2026) (Certiorari Granted Jan. 16, 2026; Argued Apr. 27, 2026; Decided Jun. 29, 2026)⁶

Issue:

Whether the government conducts a Fourth Amendment search when it compels a technology company, through a geofence warrant, to disclose location information for devices within a specified geographic area and time period.

Summary:

In 2019, law enforcement officers investigating an armed robbery of a credit union in Midlothian, Virginia, obtained a geofence warrant directing Google to provide location-history data for devices that appeared within a defined area surrounding the crime scene during a specified time window. Google complied through a multi-step process, initially providing anonymized location data for numerous devices that ultimately led investigators to identify Okello Chatrie as a suspect. Evidence obtained through the geofence warrant contributed to Chatrie’s prosecution and conviction.

Chatrie moved to suppress the evidence, arguing that the warrant violated the Fourth Amendment because it authorized collection of location information from numerous individuals without individualized probable cause and lacked sufficient particularity. The U.S. District Court for the Eastern District of Virginia concluded that the warrant violated the Fourth Amendment’s probable-cause and particularity requirements but denied suppression under the good-faith exception to the exclusionary rule because officers reasonably relied on a judicially authorized warrant.⁷

⁶ *Chatrie v. United States*, 609 U.S. ____ (2026).

⁷ *United States v. Chatrie*, 590 F. Supp. 3d 901, 940-941 (E.D. Va. 2022).

A divided panel of the Fourth Circuit affirmed.⁸ The court later granted rehearing en banc and again affirmed by an equally divided court. Seven judges concluded that the government’s acquisition of Google Location History data constituted a search within the meaning of the Fourth Amendment, while seven concluded it did not. Among the judges who found a search occurred, most also concluded that the good-faith exception barred suppression. The Supreme Court granted certiorari to determine whether the execution of the geofence warrant violated the Fourth Amendment.

In a 6-3 decision, the Supreme Court held that the government conducts a Fourth Amendment search when it compels a technology company to disclose an individual’s location history. Building on *Carpenter v. United States*,⁹ the Court concluded that Google Location History warrants at least the same Fourth Amendment protection as the cell-site location information at issue in *Carpenter* because it is “even more ‘revealing’,” providing a “more precise record of an individual’s movements.” The Court declined to decide whether the geofence warrant in this case satisfied the Fourth Amendment because the lower courts had not resolved that question after concluding that the good-faith exception to the exclusionary rule applied. Instead, the Court vacated and remanded the case for further proceedings consistent with its opinion.

Significance:

This is the Supreme Court’s first decision addressing geofence warrants and further extends the Fourth Amendment principles announced in *Carpenter* to modern digital location data. Although the Court did not decide whether the particular geofence warrant in this case satisfied the Fourth Amendment’s warrant requirements, the decision makes clear that the compelled acquisition of Google Location History generally constitutes a Fourth Amendment search. For colleges and universities, the decision will likely impact campus law enforcement investigations, institutional responses to law enforcement requests for digital location information, and privacy practices involving location information generated through mobile applications, Wi-Fi networks, identification-card systems, and other technologies that track the movements of students, employees, and visitors.

Watson v. Republican National Committee, 609 U.S. ____ (2026) (Certiorari Granted Nov. 10, 2025; Argued Mar. 23, 2026; Decided Jun. 29, 2026)¹⁰

Issue:

Whether the federal statutes establishing a uniform Election Day for federal elections preempt a state law permitting absentee ballots cast by Election Day to be received and counted after Election Day.

⁸ *United States v. Chatrie*, 136 F. 4th 100 (4th Cir. 2025) (en banc).

⁹ *Carpenter v. United States*, 585 U.S. 296 (2018) (holding that individuals have a reasonable expectation of privacy in historical cell-site location information and that the government generally must obtain a warrant supported by probable cause before acquiring such records from a wireless carrier).

¹⁰ *Watson v. Republican Nat’l Comm.*, 609 U.S. ____ (2026).

Summary:

This case arose from a challenge to a Mississippi law permitting absentee ballots in federal elections to be counted if they are postmarked by Election Day and received within five business days afterward.¹¹ The Republican National Committee, the Mississippi Republican Party, and several individual voters argued that federal statutes establishing a uniform Election Day for congressional and presidential elections preempt Mississippi's post-Election Day receipt deadline. Mississippi Secretary of State Michael Watson defended the law, arguing that federal law requires only that ballots be cast by Election Day and leaves states discretion to establish reasonable ballot-receipt procedures.

The United States District Court for the Southern District of Mississippi granted summary judgment for the state, concluding that Mississippi's absentee-ballot receipt deadline did not conflict with the federal Election Day statutes.¹² The Fifth Circuit reversed, holding that federal law requires ballots for federal office to be both cast and received by Election Day and therefore preempts Mississippi's five-day receipt period.¹³

In a 5-4 decision, the Supreme Court held that federal Election Day statutes do not preempt Mississippi's law and reversed and remanded. The Court concluded that the Election Day statutes establish a uniform deadline for casting ballots, not for receiving them, explaining that "the electorate's choice is made when voting is complete, not when ballots are received."¹⁴ The Court further concluded that the Uniformed and Overseas Citizens Absentee Voting Act (UOCAVA) confirms that although federal law dictates when absentee ballots must be cast, state law governs the deadlines for receiving and counting those ballots.¹⁵ Finally, the Court explained that its interpretation is consistent with the Constitution's treatment of presidential elections, which requires a uniform day for electors to "'give their Votes,'" but says nothing about when those votes must be received, thereby "envision[ing] a system in which receipt is necessarily divorced from voting."¹⁶

Significance:

Although this case does not directly involve higher education, the Court's decision preserves states' authority to count absentee ballots that are timely cast but received after Election Day, allowing the many states that use post-Election Day receipt deadlines to continue those practices. For colleges and universities, the ruling provides greater certainty for students, faculty, and staff who vote absentee while temporarily residing outside the jurisdictions where they are registered to vote. More broadly, the decision clarifies that the federal Election Day statutes establish a uniform deadline for casting ballots in federal elections but do not preempt state laws governing when timely cast absentee ballots may be received and counted.

¹¹ Miss. Code Ann. § 23-15-637(1)(a); 2 U.S.C. §§ 1, 7; 3 U.S.C. § 1.

¹² *Republican Nat'l Comm. v. Wetzel*, 742 F. Supp. 3d 587 (S.D. Miss. 2024).

¹³ *Republican Nat'l Comm. v. Wetzel*, 120 F.4th 200 (5th Cir. 2024).

¹⁴ *Watson v. Republican Nat'l Comm.*, 609 U.S. ___, slip op. at 7 (2026).

¹⁵ 52 U.S.C. § 20302(a)(1).

¹⁶ *Id.* at 9; Art. II, §1, cl. 4.

Mullin v. Doe, 609 U.S. ____ (2026) (Certiorari Granted Mar.16, 2026; Argued Apr. 29, 2026; Decided Jun. 25, 2026)¹⁷

Issue:

Whether the Immigration and Nationality Act precludes judicial review of statutory challenges to the Secretary of Homeland Security’s decision to terminate a country’s Temporary Protected Status designation and whether the termination of Haiti’s designation likely violated the Equal Protection Clause because it was motivated by racial discrimination.

Summary:

After President Trump’s issued Executive Order 14159¹⁸, “*Protecting the American People Against Invasion*,” the Department of Homeland Security (DHS) adopted a more restrictive approach to the Temporary Protected Status (TPS) program. Under that policy, the Secretary of Homeland Security terminated TPS designations for Syria and Haiti after determining that the statutory criteria for continued designation were no longer satisfied. Syrian nationals challenged the termination of Syria’s TPS designation, alleging that the Secretary violated the Administrative Procedure Act (APA). Haitian nationals likewise challenged the termination of Haiti’s TPS designation, alleging both APA violations and that the decision was motivated by racial discrimination in violation of the Fifth Amendment’s equal protection component.

The U.S. District Court for the Southern District of New York postponed termination of Syria’s TPS designation after concluding that the plaintiffs were likely to succeed on their APA claims.¹⁹ The U.S. District Court for the District of Columbia likewise prevented termination of Haiti’s TPS designation, concluding that the plaintiffs were likely to succeed on both their APA and equal protection claims.²⁰ Both courts found that the Secretary likely violated the TPS statute by terminating the designations without first consulting other agencies regarding current country conditions. After the courts of appeals declined to stay those orders, the Supreme Court granted certiorari before judgment, consolidated the two cases, and reviewed the merits.

In a 6-3 decision, the Court held that the TPS statute expressly precludes judicial review of non-constitutional challenges to the Secretary’s decisions to designate, extend, or terminate TPS, including claims alleging procedural violations under the APA. The Court reasoned that the statutory bar on judicial review encompasses both the Secretary’s ultimate decision and the process leading to that decision. The Court further concluded that the Haitian plaintiffs were unlikely to succeed on their equal protection claim because the record did not demonstrate that race was a motivating factor in the decision to terminate Haiti’s TPS designation. Accordingly, the Court reversed the preliminary injunctions and remanded the cases for further proceedings.

¹⁷ *Mullin v. Doe*, 598 U.S. ____ (2026).

¹⁸ Exec. Order No. 14159, *Protecting the American People Against Invasion*, 90 Fed. Reg. 8443 (Jan. 29, 2025).

¹⁹ *Doe v. Mullin*, No. 1:26-cv-02280-DEH, 2026 WL 1825840 (S.D.N.Y. 2026).

²⁰ *Miot v. Trump*, 818 F. Supp. 3d 126, (D.D.C. 2026).

Significance:

This decision substantially limits judicial review of the Executive Branch's administration of the TPS program by holding that the TPS statute bars most statutory challenges to designation and termination decisions. As a result, future litigation will likely focus primarily on constitutional claims rather than challenges brought under the APA. The decision also reinforces the Court's willingness to give effect to statutory limits on judicial review, particularly in the immigration context. For colleges and universities, the decision may have immediate practical consequences for students, faculty, researchers, staff, and other employees who rely on TPS and the employment authorization it provides. Institutions may experience changes in enrollment, hiring, workforce authorization, and immigration advising as TPS designations expire. More broadly, the decision affords the Executive Branch greater discretion in administering humanitarian immigration programs, with potential implications for institutions that employ or support individuals holding TPS or other forms of temporary immigration protection.

Wolford v. Lopez, 609 U.S. ____ (2026) (Certiorari Granted June 2, 2025; Argued Nov. 4, 2025; Decided Jun. 25, 2026)²¹

Issue:

Whether Hawaii may, consistent with the Second and Fourteenth Amendments, prohibit licensed concealed-carry permit holders from carrying firearms onto private property open to the public unless the property owner affirmatively authorizes the carrying of firearms on the premises.

Summary:

Following the Supreme Court's decision in *New York State Rifle & Pistol Association v. Bruen*, Hawaii enacted Act 52, which substantially revised its firearm-carry laws.²² Among other provisions, the statute prohibited licensed concealed-carry permit holders from carrying firearms onto private property open to the public unless the property owner or operator affirmatively authorized firearms through signage or express verbal or written permission. Several Hawaii residents holding concealed-carry permits and the Hawaii Firearms Coalition challenged the law, arguing that the statute violated the Second Amendment because it effectively rendered most privately owned businesses and other publicly accessible property off limits to lawful concealed carry.

The United States District Court for the District of Hawaii preliminarily enjoined enforcement of the provision as applied to private property open to the public.²³ The Ninth Circuit reversed, concluding that Hawaii's law was consistent with the historical tradition of firearm regulation under *Bruen* because historical laws requiring permission before carrying firearms onto another's property were sufficiently analogous to support

²¹ *Wolford v. Lopez*, 609 U.S. ____ (2026).

²² *N.Y. State Rifle & Pistol Ass'n v. Bruen*, 597 U.S. 1 (2022); Act 52, 2023 Haw. Sess. Laws Act 52.

²³ *Wolford v. Lopez*, 686 F. Supp. 3d 1034 (D. Haw. 2023).

the statute.²⁴ The Supreme Court granted certiorari to determine whether Hawaii may presumptively prohibit licensed concealed carry on private property open to the public absent the owner's consent.

In a 6-3 decision, the Supreme Court reversed. The Court held that Hawaii's requirement that permit holders obtain affirmative authorization before carrying firearms onto private property open to the public violated the Second and Fourteenth Amendments because it substantially burdened the right recognized in *Bruen* to carry firearms in public for self-defense. The Court concluded that requiring permit holders to obtain a property owner's permission before entering businesses and other privately owned places open to the public effectively prevented lawful concealed carry during ordinary daily activities. Applying *Bruen*, the Court rejected Hawaii's reliance on colonial anti-poaching laws and Reconstruction-era statutes, concluding that they were not sufficiently analogous to establish a historical tradition supporting Hawaii's presumptive prohibition. The Court also rejected Hawaii's argument that the scope of the Second Amendment may vary based on local attitudes toward firearms. The Court remanded for further proceedings.

Significance:

The decision further develops the Supreme Court's Second Amendment jurisprudence following *Bruen* by limiting states' ability to restrict licensed concealed carry on private property that is open to the public absent the owner's express consent. The decision may prompt additional challenges to similar laws adopted in other states. For colleges and universities, the immediate impact may be more limited because the Court did not address restrictions on carrying firearms at colleges and universities or other designated sensitive places. Nevertheless, the Court's analysis of historical analogues under *Bruen* may influence future litigation involving campus firearm restrictions, particularly at public institutions.

Chiles v. Salazar, 607 U.S. ____ (2026). (Certiorari Granted Mar. 10, 2025; Argued Oct. 7, 2025; Decided Mar. 31, 2026)²⁵

Issue:

Whether Colorado's Minor Conversion Therapy Law, as applied to speech between licensed mental health professionals and minors during talk therapy, violates the First Amendment by restricting speech between counselors and minors on the basis of viewpoint.

Summary:

Kaley Chiles, a licensed professional counselor in Colorado, challenged Colorado's Minor Conversion Therapy Law, which prohibits licensed mental health professionals from engaging in conversion therapy with clients under 18 years old.²⁶ Chiles alleged that, as applied to her talk therapy practice, the law impermissibly restricted her speech

²⁴ *Wolford v. Lopez*, 116 F.4th 959 (9th Cir. 2024).

²⁵ *Chiles v. Salazar*, 607 U.S., ____ (2026).

²⁶ Colo. Rev. Stat. Ann. §§ 12-245-202 (2022).

and discriminated based on viewpoint by permitting counseling that affirmed a minor's sexual orientation or gender identity while prohibiting counseling that encouraged a different outcome. Colorado defended the law as a regulation of professional conduct designed to protect minors from practices that the state determined to be harmful.

The district court denied Chiles's request for a preliminary injunction, concluding that Colorado's law regulated professional conduct rather than speech and therefore did not trigger heightened First Amendment scrutiny.²⁷ The Tenth Circuit affirmed.²⁸ The Supreme Court granted certiorari to resolve a division among the federal courts of appeals concerning the extent to which state conversion-therapy laws regulating talk therapy are subject to the First Amendment. The Third, Ninth, and Tenth Circuits had upheld such laws as regulations of professional conduct, whereas the Eleventh Circuit had concluded that comparable restrictions regulated speech directly and were therefore subject to heightened First Amendment scrutiny.²⁹

In an 8-1 decision, the Court held that, as applied to Chiles's talk therapy, Colorado's law regulates speech based on viewpoint because it permits counseling affirming a minor's sexual orientation or gender identity while prohibiting counseling expressing a contrary viewpoint. The Court therefore rejected Colorado's argument that the statute merely regulates professional conduct, concluding instead that it imposes viewpoint-based restrictions on speech occurring within the counselor-client relationship and is therefore subject to strict scrutiny. The Court remanded for further proceedings after concluding that the lower courts had erred in applying a more deferential standard of review.

Significance:

This decision represents a significant development in the Court's First Amendment jurisprudence concerning professional speech. By subjecting viewpoint-based restrictions on speech between licensed professionals and clients to strict scrutiny, the decision may significantly limit the ability of states to regulate professional services delivered primarily through speech. For colleges and universities, the ruling could affect state regulation of counselors, psychologists, physicians, and other licensed professionals working in university-affiliated counseling centers, clinics, teaching hospitals, and professional training programs. The decision may also invite broader constitutional challenges to professional licensing regulations that restrict speech based on content or viewpoint and could affect the drafting of future state laws governing licensed professionals.

II. October Term 2025: Decision Pending

Transgender Sports Cases

The Supreme Court is considering two closely related cases addressing whether state laws that restrict participation on women and girls athletic teams based on sex assigned at

²⁷ *Chiles v. Salazar*, 2022 WL 17770837 (D. Colo. Dec. 19, 2022).

²⁸ *Chiles v. Salazar*, 116 F.4th 1178 (10th Cir. 2024).

²⁹ Izzy Kapnick, 11th Circuit Splits with Sister Courts on Gay-Conversion Bans, *Courthouse News Service* (Nov. 20, 2020), <https://www.courthousenews.com/11th-circuit-splits-with-sister-courts-on-gay-conversion-bans/>.

birth are consistent with Title IX and the Equal Protection Clause when applied to transgender athletes. The Court granted certiorari in both cases on the same day and heard them during the same argument session. Although the cases arise in different educational settings (collegiate athletics in *Little v. Hecox* and K-12 athletics in *West Virginia v. B.P.J.*) both require the Court to determine whether federal law or the Constitution limits a state’s ability to maintain sex-based athletic classifications based on sex assigned at birth.

[Little v. Hecox](#), No. 24-38 (Certiorari Granted Jul. 3, 2025; Argued Jan. 13, 2026; Decision Pending).³⁰

Issue:

Whether Idaho’s Fairness in Women’s Sports Act³¹, which limits participation on women’s and girls’ athletic teams based on sex assigned at birth, violates the Equal Protection Clause and/or Title IX when applied to transgender women and girls.

Summary:

Lindsay Hecox, a transgender woman seeking to compete in women’s collegiate athletics, challenged the Idaho Fairness in Women’s Sports Act, which limits participation on women’s and girls’ athletic teams based on sex assigned at birth. Hecox argued that the statute discriminates on the basis of sex and transgender status in violation of the Equal Protection Clause and conflicts with Title IX’s prohibition on sex discrimination. Idaho defended the law, arguing that it serves important governmental interests in preserving competitive fairness and athletic opportunities for female athletes by maintaining sex-based athletic classifications.

The district court issued a preliminary injunction barring enforcement of the statute against Hecox, concluding that the law was subject to heightened scrutiny because it classified athletes based on sex and excluded transgender women and girls from participation on women’s and girls’ athletic teams.³² The district court further concluded that the state had not produced sufficient evidence showing that a blanket exclusion of all transgender women and girls—regardless of age, sport, or individual circumstances—was substantially related to those interests.³³ The Ninth Circuit affirmed, concluding that Hecox had demonstrated a likelihood of success on her Equal Protection and Title IX claims.³⁴ The court reasoned that Idaho had not shown that the challenged provisions were substantially related to its asserted interests in athletic fairness and opportunities for female athletes. Idaho subsequently petitioned for certiorari, arguing that the lower courts improperly restricted the state’s ability to maintain sex-based athletic classifications. The Supreme Court granted review to address the application of the Equal Protection Clause and Title IX to sex-based eligibility rules governing participation in women’s and girls’ athletics.

³⁰ *Little v. Hecox*, No. 24-38 (U.S. argued Jan. 13, 2026).

³¹ Idaho Code Ann. § 33-6201 (2020).

³² *Hecox v. Little*, 479 F. Supp. 3d 930, 975 (D. Idaho 2020).

³³ *Id.* at 987.

³⁴ *Hecox v. Little*, 104 F.4th 1061 (9th Cir. 2024).

Significance:

The outcome of this case may have significant implications for intercollegiate athletics, Title IX compliance, and institutional policies governing athletic participation. The Court's decision may provide important guidance regarding the extent to which educational institutions and states may rely on sex-based eligibility criteria in establishing rules for participation in women's and girls' athletics. Because Title IX applies to federally funded educational institutions nationwide, the Court's reasoning could affect institutional policies, compliance obligations, and future litigation involving transgender students across a range of educational settings. The decision may also affect conference, association, and institutional policies governing athletic participation, including those adopted by the NCAA and individual athletic conferences.

West Virginia v. B.P.J., No. 24-43 (Certiorari Granted Jul. 3, 2025; Argued Jan. 13, 2026; Decision Pending)³⁵

Issue:

Whether West Virginia's Save Women's Sports Act, which limits participation on women's and girls' athletic teams based on sex assigned at birth, violates the Equal Protection Clause and/or Title IX when applied to transgender girls.

Summary:

B.P.J., a transgender girl seeking to participate in girls' school athletics, challenged West Virginia's Save Women's Sports Act³⁶, which limits participation on women's and girls' athletic teams based on sex assigned at birth. B.P.J. argued that the statute discriminates on the basis of sex and transgender status in violation of the Equal Protection Clause and conflicts with Title IX's prohibition on sex discrimination. West Virginia defended the law, arguing that it serves important governmental interests in preserving competitive fairness and athletic opportunities for female athletes by maintaining sex-based athletic classifications. The district court denied B.P.J.'s request for a preliminary injunction, concluding that she had not demonstrated a likelihood of success on the merits and accepting the state's argument that the Act served important governmental interests in preserving competitive fairness and athletic opportunities for female athletes.³⁷

On appeal, the Fourth Circuit held that application of the Act to B.P.J. violated Title IX and directed the district court to enter summary judgment in her favor on that claim.³⁸ With respect to the Equal Protection claim, however, the court concluded that disputed issues of fact precluded summary judgment because the record contained conflicting evidence regarding whether excluding B.P.J. from girls' athletic teams substantially advanced the state's asserted interests in competitive fairness and athletic opportunities.³⁹ The court therefore remanded the Equal Protection claim for further proceedings. West

³⁵ *West Virginia v. B.P.J.*, No. 24-43 (U.S. argued Jan. 13, 2026).

³⁶ W. Va. Code § 18-2-25 (2021).

³⁷ *B.P.J. v. West Virginia State Bd. Of Educ.*, 649 F. Supp. 3d 220 (S.D.W. Va. 2023).

³⁸ *B.P.J. v. West Virginia State Bd. of Educ.*, 9 F.4th 542, 562 (4th Cir. 2024).

³⁹ *Id.* at 559-560.

Virginia subsequently petitioned for certiorari, arguing that the Fourth Circuit improperly limited the state’s ability to maintain sex-based athletic classifications. The Supreme Court granted review to address the application of the Equal Protection Clause and Title IX to sex-based eligibility rules governing participation in women’s and girls’ athletics.

Significance:

The outcome of this case may have significant implications for Title IX compliance and institutional policies governing athletic participation. Although the case arises in the K–12 setting, the Court’s reasoning may provide important guidance regarding the extent to which educational institutions and states may rely on sex-based eligibility criteria in establishing rules for participation in women’s and girls’ athletics. Because Title IX applies to federally funded educational institutions nationwide, the Court’s reasoning could affect institutional policies, compliance obligations, and future litigation involving transgender students across a range of educational settings. The decision may also clarify the extent to which the Court’s reasoning in *Bostock v. Clayton County*⁴⁰ applies to Title IX claims involving transgender students.

Trump v. Barbara, No. 25-365 (Certiorari Granted Dec. 5, 2025; Argued Apr. 1, 2026; Decision Pending)⁴¹

Issue:

Whether Executive Order No. 14160, which limits recognition of birthright citizenship for certain children born in the United States to parents who are unlawfully present or present only temporarily, violates the Citizenship Clause of the Fourteenth Amendment and 8 U.S.C. § 1401(a).

Summary:

After President Trump issued Executive Order No. 14160, “Protecting the Meaning and Value of American Citizenship,”⁴² three families, on behalf of themselves and similarly situated individuals, challenged the order, arguing that it violates the Citizenship Clause of the Fourteenth Amendment and the federal citizenship statute. The government defended the order, arguing that the Citizenship Clause does not automatically confer citizenship on all persons born in the United States and that long-standing interpretations of the Clause are inconsistent with its original meaning.

The U.S. District Court for the District of New Hampshire issued a preliminary injunction and provisionally certified a nationwide class of children affected by the order.⁴³ Before the First Circuit ruled on the government’s appeal, the Supreme Court granted the government’s petition for certiorari before judgment to decide whether

⁴⁰ *Bostock v. Clayton Cnty.*, 590 U.S. 644 (2020).

⁴¹ Docket, *Trump v. Barbara*, No. 25-365 (U.S.), <https://www.supremecourt.gov/docket/docketfiles/html/public/25-365.html>.

⁴² Exec. Order No. 14,160, *Protecting the Meaning and Value of American Citizenship*, 90 Fed. Reg. 8449 (Jan. 29, 2025); U.S. Const. amend. XIV, § 1; 8 U.S.C. § 1401(a).

⁴³ *Barbara v. Trump*, 790 F. Supp. 3d 80 (D.N.H. 2025) (granting preliminary injunction and provisionally certifying nationwide class).

Executive Order No. 14160 is consistent with the Citizenship Clause of the Fourteenth Amendment and 8 U.S.C. § 1401(a).⁴⁴

Significance:

This case could have significant implications for colleges and universities by determining whether certain individuals born in the United States are recognized as citizens at birth. If the Court upholds the executive order, institutions may face new questions regarding student citizenship status, eligibility for federal financial aid, residency determinations, admissions classifications, employment authorization, and participation in programs that depend on United States citizenship.⁴⁵ More broadly, the Court's decision may provide important guidance regarding application of the Citizenship Clause of the Fourteenth Amendment and the extent of presidential authority to interpret and implement federal citizenship laws through executive action.

National Republican Senatorial Committee v. Federal Election Commission, No. 24-621 (Certiorari Granted Jun. 30, 2025; Argued Dec. 9, 2025; Decision Pending)⁴⁶

Issue:

Whether the limits on coordinated party expenditures in the Federal Election Campaign Act⁴⁷ violate the First Amendment, either facially or as applied to coordinated communications between political parties and their candidates.

Summary:

This case arose from a challenge to the Federal Election Campaign Act's limits on coordinated expenditures by political parties. The Act permits political parties to spend only up to specified dollar limits each election cycle in coordination with their candidates for federal office, with the precise amount varying based on the office sought and other statutory factors. The National Republican Senatorial Committee, the National Republican Congressional Committee, then-Senator J.D. Vance, and then-representative Steve Chabot sought to engage in campaign advertising coordinated with their candidates beyond the statutory limits. They argued that because coordinated expenditures constitute core political speech between candidates and their political parties, the statutory caps violate the First Amendment. The petitioners further contended that the Supreme Court's modern campaign-finance decisions have undermined *FEC v. Colorado Republican Federal Campaign Committee (Colorado II)*, the Court's 2001 decision upholding those limits, and urged the Court to reconsider that precedent.

The United States District Court for the Southern District of Ohio certified the constitutional questions to the United States Court of Appeals for the Sixth Circuit sitting en banc.⁴⁸ The Sixth Circuit rejected both the facial and as-applied challenges,

⁴⁴ *Trump v. Barbara*, No. 25-365 (U.S. Dec. 5, 2025) (granting petition for writ of certiorari before judgment).

⁴⁵ See, e.g., 20 U.S.C. § 1091(a)(5) (citizenship requirements for federal student aid).

⁴⁶ Docket, *Nat'l Republican Senatorial Comm. v. FEC*, No. 24-621 (U.S.), <https://www.supremecourt.gov/docket/docketfiles/html/public/24-621.html>.

⁴⁷ 52 U.S.C. § 30116(d); *FEC v. Colo. Republican Fed. Campaign Comm.* (Colorado II), 533 U.S. 431 (2001).

⁴⁸ *Nat'l Republican Senatorial Comm. v. FEC*, 712 F. Supp. 3d 1017 (S.D. Ohio 2024), *question certified*, *Nat'l Republican Senatorial Comm. v. FEC*, 117 F.4th 389 (6th Cir. 2024) (en banc).

concluding that *Colorado II* remained binding precedent unless and until the Supreme Court overruled it. The petitioners sought Supreme Court review. After the Solicitor General declined to defend the constitutionality of the challenged provisions, the Supreme Court granted the Democratic National Committee and affiliated Democratic committees leave to intervene to defend the Sixth Circuit’s decision upholding the law.⁴⁹ The Court also appointed an amicus curiae to present arguments supporting the Sixth Circuit’s decision. The Court granted certiorari on June 30, 2025, heard oral argument on December 9, 2025, and the case remains pending.

Significance:

This case could substantially reshape federal campaign-finance law. If the Court invalidates the coordinated party expenditure limits, political parties may be permitted to spend significantly more in coordination with their federal candidates, potentially altering campaign fundraising and elections strategies nationwide. Although the case does not directly involve higher education, changes to the political landscape may lead to heightened political activity on college campuses and indirectly influence the federal policy priorities affecting colleges and universities.

III. October Term 2024

National Institutes of Health v. American Public Health Association, No. 25A103
(Application for Stay Granted: Aug. 21, 2025)⁵⁰

Issue:

Whether a district court may order restoration of previously terminated federal grant funding pending litigation where the government contends that claims seeking such relief must be brought in the Court of Federal Claims under the Tucker Act.

Summary:

This case arose after the National Institutes of Health (NIH) and the Department of Health and Human Services (HHS) terminated numerous research grants that funded projects involving public health, health disparities, gender identity, diversity-related research, and other topics.⁵¹ A coalition of organizations, researchers, and grant recipients challenged the terminations in federal court, arguing that the agencies had acted unlawfully and had failed to provide adequate justification for ending previously awarded grants.

The U.S. District Court for the District of Massachusetts concluded that the agency directives on which the grant terminations were based were likely unlawful and ordered NIH to continue funding the affected grants.⁵² The government then sought a stay from

⁴⁹ *Nat’l Republican Senatorial Comm. v. FEC*, No. 24-621 (U.S. June 30, 2025) (order granting motion to intervene and treating the application as a petition for a writ of certiorari before judgment); see also Order Appointing Amicus Curiae, *Nat’l Republican Senatorial Comm. v. FEC*, No. 24-621 (U.S. July 1, 2025).

⁵⁰ *Nat’l Insts. of Health v. Am. Pub. Health Ass’n*, 606 U.S. ____ (2025).

⁵¹ *Id.* at 1-3.

⁵² *Am. Pub. Health Ass’n v. Nat’l Insts. of Health*, 791 F. Supp. 3d 119, 185-186 (D. Mass. July 2, 2025).

the Supreme Court, arguing that the district court had exceeded its authority by effectively requiring the continued payment of federal funds while the litigation remained pending.

The Court granted the government’s application for a stay in a closely divided and fragmented emergency-docket ruling, with no majority opinion. The Court stayed the portion of the district court’s order requiring NIH to restore previously terminated grants but did not stay the portion of the order vacating the agency directives that had served as the basis for the challenged grant terminations. Although no rationale commanded a majority of the Court, Justice Barrett’s concurrence emphasized that claims seeking restoration of previously awarded grant funds may be materially different from APA challenges to agency policies or directives and suggested that such claims may fall within the Tucker Act framework governing claims for monetary relief against the United States.⁵³ As a result, although NIH was not required to restore the previously terminated grants, the district court’s ruling vacating the underlying agency directives remains in effect during the litigation.

Significance:

This decision signals an emerging distinction between challenges seeking restoration of previously terminated grant funding and challenges to agency policies or directives governing future funding decisions. Although the fragmented stay ruling did not definitively resolve the jurisdictional issues, Justice Barrett’s concurrence suggests that claims seeking restoration of previously awarded grant funds may be subject to the Tucker Act and therefore may be required to proceed in the Court of Federal Claims. At the same time, her concurrence suggests that APA challenges to agency directives may remain available even when claims seeking restoration of grant funds face jurisdictional obstacles. For colleges and universities, the decision is significant because it may affect both where institutions litigate disputes involving terminated federal research grants and how they challenge broader agency policies affecting future grant funding. Read together with *Department of Education v. California*,⁵⁴ the decision may reflect increased judicial skepticism toward district court orders requiring continued federal grant payments while litigation is pending.

Stanley v. City of Sanford, 606 U.S. ____ (2025) (Certiorari Granted Jun. 24, 2024; Argued Jan. 13, 2025; Decided Jun. 20, 2025)⁵⁵

Issue:

Whether a former employee who no longer holds or seeks employment is a “qualified individual” entitled to sue under Title I of the ADA for discrimination relating to post-employment benefits.

Summary:

⁵³ *Nat’l Insts. of Health v. Am. Pub. Health Ass’n*, 606 U.S. ___, ___ (2025) (Barrett, J., concurring) (slip op., at 3–5).

⁵⁴ *Dep’t of Educ. v. Cal.*, 604 U.S. 650 (2025).

⁵⁵ *Stanley v. City of Sanford*, 606 U.S. 46 (2025).

A former firefighter for the City of Sanford, Florida sued the City under the ADA, alleging disability discrimination in a retiree health insurance subsidy program that provided different benefits depending on whether an employee retired after completing the required years of service or retired because of a disability. Under a revised benefits policy, employees who retired because of a disability received health insurance subsidies only until they became eligible for Medicare or for 24 months after retirement, whichever occurred first, whereas employees who retired after completing the required years of service remained eligible for subsidies until age 65. After petitioner's disability retirement benefits expired under the policy, she sued under the ADA. The district court dismissed her claim, relying on Eleventh Circuit precedent holding that former employees who neither hold nor seek employment are not "qualified individuals" within the meaning of Title I of the ADA.⁵⁶

On appeal, the Eleventh Circuit affirmed. It concluded that petitioner was not a "qualified individual" at the time of the alleged discrimination because she was not disabled when the City adopted the policy and, by the time her benefits ended, she had already retired and was no longer employed by, or seeking employment with the City.⁵⁷ The court noted that its approach was consistent with decisions from several other circuits, including the Sixth, Seventh, and Ninth Circuits.⁵⁸

In an 8-1 decision, the Court ruled for the City of Sanford, holding that a plaintiff bringing a claim under Title I of the ADA must be a "qualified individual" at the time of the alleged discrimination. Because the statute defines a qualified individual as someone who can perform the essential functions of a position she holds or desires, the Court concluded that retirees generally fall outside the class of individuals authorized to bring employment-discrimination claims under Title I.

Significance:

The decision significantly limits the ability of retirees and other former employees to bring employment-discrimination claims under Title I of the ADA based on post-employment benefits. For colleges and universities, the decision may reduce exposure to certain ADA claims involving retiree health, disability, and other post-employment benefits, while increasing the importance of alternative statutory, contractual, or benefits-related theories of relief. As a result, some disputes involving retiree benefits may fall outside the ADA's coverage unless another legal theory or statute applies.

Trump v. CASA Inc., 606 U.S. ____ (2025) (Certiorari Granted Mar. 13, 2025; Argued May 15, 2025; Decided Jun. 27, 2025)⁵⁹

Issue:

⁵⁶ *Stanley v. City of Sanford*, No. 6:20-cv-629-WWB-GJK, 2021 WL 6333059, at *2 (M.D. Fla. Mar. 1, 2021).

⁵⁷ *Stanley v. City of Sanford*, 83 F.4th 1333, 1343-1344 (11th Cir. 2023).

⁵⁸ See *McKnight v. Gen. Motors Corp.*, 550 F.3d 519, 522-28 (6th Cir. 2008); *Morgan v. Joint Admin. Bd.*, 268 F.3d 456, 457-59 (7th Cir. 2001); *Weyer v. Twentieth Century Fox Film Corp.*, 198 F.3d 1104, 1108-13 (9th Cir. 2000).

⁵⁹ *Trump v. CASA, Inc.*, 606 U.S. ____ (2025).

Whether federal district courts possess equitable authority to issue universal preliminary injunctions prohibiting enforcement of Executive Order 14160, “Protecting the Meaning and Value of American Citizenship,”⁶⁰ beyond the parties before the court.

Summary:

On January 20, 2025, President Trump issued Executive Order 14160, which sought to deny automatic birthright citizenship to certain children born in the United States to undocumented immigrants and certain temporary noncitizens. Three federal district courts in Maryland, Washington, and Massachusetts granted preliminary injunctions barring enforcement of the order on a nationwide basis, including with respect to individuals who were not parties to the litigation.⁶¹

The government appealed the preliminary injunctions and sought stays in each case, but the courts of appeals denied relief.⁶² The government then filed emergency applications in the Supreme Court challenging the district courts’ authority to issue universal injunctions extending relief beyond the parties before the court. The Court granted review on all three cases⁶³ and consolidated them for the purposes of oral argument.

In a 6-3 decision, the Court held that the government was likely to succeed on its argument that universal injunctions exceed the equitable authority conferred on federal courts by the Judiciary Act of 1789. The Court reasoned that federal courts may grant only those forms of equitable relief traditionally available in courts of equity and concluded that universal injunctions were not among them. The Court further emphasized that equitable relief ordinarily must be limited to what is necessary to provide complete relief to the parties before the court. Because the district courts’ injunctions extended protection to nonparties nationwide, the Court granted a partial stay and limited the injunctions to the scope necessary to afford complete relief to the plaintiffs. The Court declined to address the constitutionality of the executive order.

Significance:

The decision substantially narrows the availability of universal injunctions as a remedy against federal executive action. More broadly, the decision represents a significant development in the Court’s ongoing effort to redefine the remedial powers of federal courts and may have implications across a wide range of challenges to federal administrative action. For colleges and universities, the ruling may alter litigation strategy when challenging federal statutes, regulations, grant conditions, or executive actions. Institutions, higher education associations, and state university systems may increasingly rely on class actions, associational standing, coordinated multi-plaintiff litigation, and state-led challenges to obtain broad prospective relief. The decision leaves unresolved important questions regarding the availability and scope of relief in class

⁶⁰ Exec. Order No. 14160, 90 Fed. Reg. 8449 (Jan. 20, 2025).

⁶¹ See *CASA, Inc. v. Trump*, 763 F. Supp. 3d 723 (D. Md. Feb. 5, 2025); *Washington v. Trump*, 765 F. Supp. 3d 1142 (W.D. Wash. Feb. 6, 2025); and *Doe v. Trump*, 766 F. Supp. 3d 266 (D. Mass. Feb. 13, 2025).

⁶² See *New Jersey v. Trump*, 131 F.4th 27 (1st Cir. Mar. 11, 2025); *CASA, Inc. v. Trump*, No. 25-1153, 2025 WL 654902 (4th Cir. Feb. 28, 2025); and *Washington v. Trump*, No. 25-807, 2025 WL 553485 (9th Cir. Feb. 19, 2025).

⁶³ *Trump v. CASA, Inc.*, 606 U.S. ____ (2025); *Trump v. Washington*, No. 25-364 (U.S. filed Sept. 26, 2025); *Trump v. New Jersey*, No. 24A886 (U.S. filed June 27, 2025).

actions, associational suits, and state-led challenges. The decision is also likely to increase the importance of remedial questions in challenges to federal action, including disputes concerning the proper scope of judicial relief.

IV. October Term 2026: Certiorari Granted

Crowther v. Board of Regents of the University System of Georgia, No. 25-183 (Certiorari granted May 18, 2026)⁶⁴

Issue:

Whether Title IX of the Education Amendments of 1972 provides employees of federally funded educational institutions an implied private right of action for employment discrimination.

Summary:

The Supreme Court granted certiorari to resolve a circuit split regarding whether employees of federally funded educational institutions may bring private employment-discrimination claims under Title IX. Petitioners are former employees of the Georgia Institute of Technology and Augusta University who allege sex discrimination and retaliation and contend that Title IX authorizes a private right of action for employment-related claims.

The Eleventh Circuit held that Title IX does not provide employees at federally funded educational institutions with a private right of action for employment discrimination.⁶⁵ Relying on Title VII's comprehensive remedial scheme, the court concluded that Congress intended Title VII—not Title IX—to provide the federal remedy for employment discrimination claims brought by employees. Eight federal courts of appeals have reached the opposite conclusion, permitting employees to pursue employment discrimination claims under Title IX.⁶⁶

Significance:

The Court's decision will determine whether college and university employees may bring employment discrimination claims under Title IX or whether Title VII provides the exclusive remedy for such claims. The outcome could significantly affect litigation strategy, procedural requirements, and institutional exposure to employment-discrimination claims. Unlike Title VII, Title IX does not contain administrative exhaustion requirements and has been interpreted by many courts to permit plaintiffs to proceed directly to federal court. A decision recognizing a Title IX cause of action for employees could preserve an additional avenue for employment-discrimination litigation against colleges and universities. Conversely, a decision adopting the Eleventh Circuit's

⁶⁴ *Crowther v. Board of Regents of the Univ. Sys. of Ga.*, 121 F.4th 855 (11th Cir. 2024), *cert. granted*, 2026 WL 1377024 (U.S. May 18, 2026) (No. 25-183).

⁶⁵ *Joseph v. Board of Regents of the Univ. Sys. of Ga.*, 121 F.4th 855 (11th Cir. 2024).

⁶⁶ Appellate Courts Divided Over School Employee Discrimination Lawsuit and Title IX, Congressional Research Service (Dec. 3, 2024), https://www.congress.gov/crs_external_products/LSB/PDF/LSB11248/LSB11248.2.pdf.

approach would likely channel such claims exclusively through Title VII's statutory framework.

SUPREME COURT REVIEW

June 30, 2026

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I. Civil Rights

West Virginia v. B.P.J., 146 S.Ct. ____ (June 30, 2026). State laws prohibiting transgender girls and women from participating in sports that correspond to their gender identity do not violate Title IX of the Education Amendments of 1972 or the equal protection clause of the 14th Amendment.

Chiles v. Salazar, 146 S.Ct. 1010 (2026). A law that censors certain conversations between counselors and their clients based on the viewpoints must meet strict scrutiny under the free speech clause of the First Amendment.

Louisiana v. Callais, 146 S.Ct. 1131 (2026). Race cannot be used as a predominant factor in districting even if needed to avoid liability under Section 2 of the Voting Rights Act. Drawing districts for partisan advantage is permissible, even if it will have a racially disparate impact.

II. Fourth Amendment

Case v. Montana, 146 S.Ct. 500 (2026). Under the standard set in Brigham City v. Stuart, the Fourth Amendment allows police officers to enter a home without a warrant if they have an “objectively reasonable basis for believing” that someone inside needs emergency assistance; that standard was met here.

Chatrue v. U.S., 146 S.Ct. ____ (June 29, 2026). The execution of a geofence warrant is a search within the Fourth Amendment.

IV. Presidential power

A. Fund cutoffs

Department of Education v. California, 24A910 (April 4, 2025). Reversing district court’s temporary restraining order as to the cutoff of \$65 million of Department of Education funds for teacher training.

National Institutes of Health v. American Public Health Association, 25A103 (August 21, 2025). District court lacked jurisdiction, which was properly in the Court of Federal Claims, to hear challenge to termination of grants by the NIH. District court has jurisdiction to hear challenges to policy directives to cutoff funds.

B. Tariffs

Learning Resources v. Trump, 146 S.Ct. 628 (2026). The International Emergency Economic Powers Act does not authorize the president to impose tariffs.

C. Removal

Trump v. Slaughter, 146 S.Ct. ____ (June 29, 2026). The statutory removal protections for members of the Federal Trade Commission violate the separation of powers and *Humphrey's Executor v. United States* is overruled.

Trump v. Cook, 146 S.Ct. ____ (June 29, 2026). Lisa Cook, a Governor of the Federal Reserve Board, was entitled under the federal statute to notice and the opportunity to be heard before her firing for alleged mortgage fraud.

D. Birthright citizenship

Trump v. Barbara, 146 S.Ct. ____ (June 30, 2026). Executive Order No. 14,160 which limits birthright citizenship violates the Fourteenth Amendment.

IV. Second Amendment

Wolford v. Lopez, 146 S.Ct. ____ (June 25, 2026). The Hawaii law violates the Second Amendment in prohibiting handguns on private property open to the public unless the property owner affirmatively gives express permission to the handgun carrier.