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What Does Today's LGBT Supreme Court Ruling Mean For Schools?

**Wesley Whistle** Senior Contributor ⓘ

Education

I write about education, including policy, student debt, and more.

WASHINGTON, DC - JUNE 15: Joseph Fons holding a Pride Flag, stands in front of the U.S. Supreme ...

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Today, the [United States Supreme Court ruled](#) that federal law prohibits employment discrimination against lesbian, gay, bisexual, and transgender (LGBT) people. This ruling will have a direct impact on education now, but will likely affect schools even more in the future.

The 6-3 decision released today considered three cases where an employer fired long-time employees for being homosexual or transgender: *Altitude Express Inc. v. Zarda*, *Bostock v. Clayton County*, and *R.G. & G.R. Harris Funeral Homes v. EEOC*. The majority opinion held that, “An employer who fires an individual merely for being gay or transgender violates Title VII.”

[Title VII of the Civil Right Act of 1964](#) prohibited discrimination in the workplace on the basis of race, color, religion, sex, or national origin. The question before the court has been whether sexual orientation or gender identity are concepts so closely related to “sex”—meaning gender—that a prohibition of sex discrimination includes them.

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The Trump-appointed, conservative Associate Justice Neil Gorsuch agreed that it did. Gorsuch wrote, “An employer who fires an individual for being homosexual or transgender fires that person for traits or actions it would not have questioned in members of a different sex. Sex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.”

This ruling will have a broad and immediate impact across the country, including on education. [LGBT teachers](#) have long worried about discrimination and the risk of being fired. Now, those teachers will be protected.

That itself will have immediate and long-term consequences, but not just for teachers. LGBT teachers who are able to be out at work can have a positive impact on students. That visibility can help create a safe, open, and inclusive environment for students to learn — both for LGBT and straight students.

This ruling will likely have other impacts on education down the road. LGBT issues beyond employment discrimination have been contentious in schools for years. While the decision today is limited to employment discrimination on the basis of sex, it opens the door to other areas.

In fact, the conservative Associate Justice Samuel Alito pointed to this in his dissent. “By equating discrimination because of sexual orientation or gender identity with discrimination because of sex, the Court’s decision will be cited as a ground for subjecting all three forms of discrimination to the same exacting standard of review,” he wrote.

Alito continued, “Under this logic, today’s decision may have effects that extend well beyond the domain of federal antidiscrimination statutes. This potential is illustrated by pending and recent lower court cases in which transgender individuals have challenged a variety of federal, state, and local laws and policies on constitutional grounds.” He then pointed to a number of examples, including at least three cases related to education.

First, Alito mentioned [Hecox v. Little](#), a case where a university student and a high school student are suing because a state law prohibits transgender students from competing in sports based on their gender identity. And that isn’t the only case related to this issue. [The Department of Education, led by Secretary Betsy DeVos, recently told Connecticut](#) that allowing transgender girls to compete with non-transgender girls violated federal law and they were at risk of losing their federal education funding. The Alliance Defending Freedom—labeled an “extremist hate group” by the Southern Poverty Law Center—has sued Connecticut over this.

Two other cases Alito mentioned involve the use of bathrooms by transgender students. One of those was the case of [Gavin Grimm](#), a transgender man suing after his school required him to use a gender-neutral bathroom. The other case required a transgender student to use the bathroom of the gender on their birth certificate.

Many state legislatures have legislated on this divisive issue, sometimes at the expense of companies pulling out of their states over these “[bathroom bills](#).”

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All of these cases consider [Title IX](#) of federal civil rights law that says, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

It’s not difficult to imagine how the ruling today prohibiting sex discrimination in employment could extend to these cases, as Alito suggested. Under this argument, Alito also referenced other issues that could arise from this, including college housing, health care, and free speech.

This decision comes during Pride Month and five years after the landmark ruling that guaranteed same-sex couples the right to marry. But before this decision, employment protections for LGBT people did not exist in many states. LGBT people could get married and then fired for doing so.

The other cases might take time to work themselves through the courts, but advocates see this ruling as a victory. And if it opens the door to further discrimination protections, it will be viewed as even more of a win.

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Wesley Whistle

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