

ABBREVIATED U.S. SUPREME COURT CHART

U.S. SUPREME COURT TERM: 2011-12

Updated: February 13, 2012

New filings=green font

Updates=red font

Amicus cases= yellow highlight

CASE/DOCKET NO. /DATE FILED	ISSUE	STATUS
<i>Swanson v. Morgan</i> , 11-941, 1/26/12	Student Rights & Discipline: In this qualified immunity appeal from a motion to dismiss, should the lower court's discussion of the merits of the underlying constitutional issues be vacated because the lower court correctly held that the law was not clearly established, the parties do not have a continuing interest in the legal issues at stake, and the lower court's discussion of the constitutional issue constitutes an impermissible advisory opinion	Pending consideration
<i>Houston v. Easton Area Sch. Dist.</i> , 11-914, 1/13/12	Employment & Labor: (1) In a discrimination action, can the court exclude testimony of a nonparty who is "similarly situated" in all material respects to the plaintiff, while simultaneously admitting "not-me" evidence from the defense by expanding comparators to include employees supervised by the plaintiff; (2) In a discrimination action, can the court apply differing standards for admission of "me, too" evidence for similarly situated comparators to prove discrimination and a lower standard for the defense's not-me evidence to disprove discrimination in the same trial	Pending consideration
<i>Johnson v. Poway Unified Sch. Dist.</i> , 11-910, 1/19/12	Employment & Labor: (1) Should <i>Pickering v. Bd. of Educ.</i> , 391 U.S. 563 (1968), and <i>Garcetti v. Ceballos</i> , 547 U.S. 410 (2006), apply in a case challenging a viewpoint restriction on a public school teacher's personal, non-curricular speech expressed in a limited public forum created by the school district; (2) Did school officials violate the Free Speech Clause and Equal Protection Clause by restricting a teacher's personal, non-curricular speech expressed in a limited public forum created by the school district based on the teacher's viewpoint	Pending consideration
<i>Clark v. Iowa State Univ.</i> , 11-822, 12/14/11	Employment & Labor: 1) Should the district court have dismissed the petitioner's constitutional claims for failure to state a claim because she did not invoke jurisdiction under 42 U.S.C. § 1983; (2) Did the dismissal of the petitioner's constitutional claims violate the holding in <i>Scheuer v. Rhodes</i> , 416 U.S. 232 (1974), as modified by <i>Bell Atlantic Corp. v. Twombly</i> , 550 U.S. 544, 75 U.S.L.W. 4337 (2007)	Pending consideration
<i>Morgan v. Swanson</i> , 11-804, 12/22/11	Student Rights & Discipline: 1) Is it clearly established that private, non-curricular student speech may not be discriminated against solely on the basis of its religious viewpoint; (2) At a minimum, is it clearly established that private, non-curricular student speech that takes place outside of the school and after school hours may not be discriminated against solely on the basis of its religious viewpoint	Pending consideration

<p>Nampa Classical Academy Inc. v. Goesling, 11-786, 12/21/11</p>	<p>Curriculum: (1) May a state agency ban the objective use of all materials it deems "religious" from public schools (including charter schools) and universities without First Amendment scrutiny; (2) Does a state have either a valid educational interest or a mandate from the Establishment Clause to prohibit the objective use of all religious materials in a secular curriculum; (3) Are political subdivisions barred per se from suing their states in federal court regardless of their degree of independence or the type of claim</p>	<p>Pending consideration</p>
<p>C.F. v. Corbett, 11-759, 12/14/11</p>	<p>Religion: Did the U.S. Court of Appeals for the Ninth Circuit err by refusing to address whether a constitutional right was violated prior to granting qualified immunity to a public school teacher, thereby failing to establish precedent where none currently exists as to the neutrality required by the Establishment Clause within a public high school classroom</p>	<p>Pending consideration</p>
<p>Alpha Delta Chi-Delta Chapter v. Reed, 11-744, 12/14/11</p>	<p>Student Rights & Discipline: (1) Does a university violate the free speech and free association rights of religious student organizations by denying them access to a speech forum because they require their members and leaders to agree with the groups' religious beliefs, while at the same time granting access to nonreligious groups that require their members and leaders to agree with the groups' nonreligious beliefs; (2) Does a university violate the Free Exercise Clause by expressly targeting religious student groups for exclusion from a student organization speech forum and by burdening their religious practice pursuant to a policy that is neither neutral nor generally applicable</p>	<p>Pending consideration</p>
<p>Policastro v. Tenafly Bd. of Educ., 11-666, 11/23/11</p>	<p>Employment & Labor: (1) Does <i>Tinker v. Des Moines Independent Community School Dist.</i>, 393 U.S. 503 (1969), apply only to cases involving viewpoint discrimination; (2) Can a tenured public school teacher be threatened with tenure charges for placing a memo (private speech) in teacher mailboxes when it is undisputed that the memo did not cause any disruption; (3) Does <i>Tinker</i> apply in cases involving the First Amendment rights of teachers</p>	<p>Pending consideration</p>
<p>Vance v. Ball State Univ., 11-556, 10/31/11</p>	<p>Employment & Labor: As the Second, Fourth, and Ninth circuits have held, does the supervisor liability rule under <i>Faragher v. City of Boca Raton</i>, 524 U.S. 775 (1998), and <i>Burlington Industries Inc. v. Ellerth</i>, 524 U.S. 742 (1998), apply to harassment by those whom the employer vests with authority to direct and oversee their victim's daily work, or is it limited to those harassers who have the power to hire, fire, demote, promote, transfer, or discipline their victim, as the First, Seventh, and Eighth circuits have held</p>	<p>Pending consideration</p>
<p>Phillis v. Harrisburg Sch. Dist., 11-543, 10/5/11</p>	<p>Employment & Labor: Can temporal proximity between a protected activity and an adverse employment action or other retaliatory act alone defeat an employer's motion for summary judgment in a claim for retaliation under the Age Discrimination in Employment Act, particularly when asserted legitimate reasons for the action have occurred between the protected activity and the adverse employment action</p>	<p>Pending consideration</p>
<p>Peninsula Sch. Dist. v. D.P., 11-539, 10/26/11</p>	<p>Special Education & Disabilities: 1) Under the Individuals with Disabilities Education Act, what is the test for determining whether a plaintiff is seeking relief that is also available under the IDEA, thereby triggering the act's requirement that the plaintiff exhaust administrative remedies before filing suit; (2) When a plaintiff is in part seeking relief also available under the IDEA, must the plaintiff first exhaust the administrative remedies available under the IDEA before pursuing any federal claim; (3) May a court reject a properly supported summary judgment motion and allow the non-moving party to amend its complaint to assert facts that contradict sworn deposition testimony</p>	<p>Petition to be considered in conference on 2/17/12</p>

<i>Al-Jurf v. Scott-Conn</i> , 11-515, 10/21/11	Employment & Labor: Is a tenured state university employee whose employment was terminated as a result of the actions of state officials, depriving him of his constitutionally protected property interest, required to prove that their conduct was "arbitrary and capricious," or must he prove an intent to cause harm for no legitimate purpose	Pending consideration
<i>Victory Through Jesus Sports Ministry Foundation v. Lee's Summit R-7 Sch. Dist.</i> , 11-402, 9/27/11	Religion: (1) Is a flyer or literature distribution policy that grants outside groups access to a public school forum based in part upon the discretion to approve or disapprove applications on the basis of speaker identity "as determined appropriate," and "to be fair," and that permits the decision-maker to prefer groups having a "symbiotic relationship" with the district, subject to a facial challenge as a violation of the First Amendment; (2) Is a flyer or literature distribution policy that grants multiple outside groups access to the public school forum a nonpublic forum or a limited public forum for purposes of a First Amendment challenge; (3) Does the First Amendment require that the specific forum to which the speaker seeks access be narrowly defined to determine whether the restriction complies with the First Amendment	Pending consideration
<i>Fisher v. University of Texas at Austin</i> , 11-345, 9/15/11	Equity & Discrimination: Do this Court's decisions interpreting the Equal Protection Clause of the Fourth Amendment, including <i>Grutter v. Bollinger</i> , 539 U.S. 306, 71 U.S.L.W. 1788 (2003), permit the University of Texas at Austin's use of race in undergraduate admissions decisions	Pending consideration
<i>Doe v. Todd County Sch. Dist.</i> , 10-1411, 5/16/11	Special Education & Disabilities: IDEA – disciplinary suspension – change in placement - IDEA administrative procedures as sufficient remedy for due process violation	Pending consideration
<i>Filarsky v. Delia</i> , 10-1018, 2/3/11	Legal System: Is a lawyer retained to work with government employees in conducting an internal affairs investigation precluded from asserting qualified immunity solely because of his status as a "private" lawyer rather than a government employee	Argued 1/17/12