

Bond Case Briefs

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SCHOOLS - ALABAMA

KB v. Daleville City Bd. of Educ.

United States Court of Appeals, Eleventh Circuit - September 30, 2013 - Fed.Appx. - 2013 WL 5422685

Parent brought Title IX action against city board of education, alleging that her daughter was sexually harassed by grade school custodian. The United States District Court for the Middle District of Alabama, granted summary judgment in favor of board. Plaintiff appealed.

The Court of Appeals held that:

- School's principal and superintendent did not act with "deliberate indifference" to actual notice of possibility that custodian might sexually harass student;
- Students' and teachers' complaints that custodian was continuously "undressing them with his eyes" did not give principal "actual notice" of possibility that custodian might sexually harass student; and
- Board of education did not act with "deliberate indifference" to actual notice of custodian's alleged inappropriate touching of student's buttocks and his violation of command to avoid contact with student.

A Title IX sexual harassment plaintiff must identify a school district official with the authority to take corrective measures in response to "actual notice" of sexual harassment. The actual notice must be sufficient to alert that official to the possibility of the plaintiff's sexual harassment, and that official must respond with deliberate indifference in order for Title IX liability to arise.