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SCHOOLS - NORTH CAROLINA

Peltier v. Charter Day School, Inc.

United States Court of Appeals, Fourth Circuit - June 14, 2022 - 37 F.4th 104

Female students, through their parents, brought action against private nonprofit corporation that operated charter school, members of corporation's board, and for-profit corporation that managed school's day-to-day operation alleging that charter school's dress code, which required only female students to wear skirts, violated their rights under Equal Protection Clause, Title IX, and state law.

The United States District Court entered summary judgment in students' favor on equal protection claim and in defendants' favor on Title IX claim. Parties filed cross-appeals. The Court of Appeals reversed and remanded.

The Court of Appeals, on rehearing en banc, held that:

- Operator of charter school performed "state action" in implementing school's dress code, as required to support operator's liability, in § 1983 equal protection challenge;
- For-profit corporation did not perform "state action" in implementing school's dress code, as required for § 1983 liability;
- Charter school's dress code violated the Equal Protection Clause;
- For-profit corporation that managed school's day-to-day operations was "recipient" of federal financial assistance subject to Title IX; and
- Title IX applied to sex-based dress codes.

Private operator of charter school designated as public, under North Carolina law, performed "state action" in implementing school's dress code, which required only female students to wear skirts, as required to support operator's liability, in § 1983 equal protection challenge to dress code; under North Carolina's charter school system, state delegated to charter school operators part of state's traditional constitutional duty to provide free, universal elementary and secondary education to students, and school's dress code was central component of school's educational philosophy of providing a traditional educational environment with traditional manners.

For-profit corporation that contracted with private operator of charter school designated as public, under North Carolina law, to manage charter school's day-to-day operations did not perform "state action" in implementing school's dress code, which required only female students to wear skirts, as required to support for-profit corporation's liability, in § 1983 equal protection challenge to dress code; corporation had no direct relationship with state and was not party to the charter agreement between North Carolina and charter school operator, North Carolina did not otherwise delegate its constitutional duty to provide free, universal elementary and secondary education to for-profit management corporation, and the corporation contracted only with operator to provide management services.

Public charter school's dress code, which required only female students to wear skirts, violated the Equal Protection Clause; the skirts requirement was gender-based, it promoted impermissible gender stereotypes, including that girls were "fragile" and required protection by boys, and it did

not serve any important governmental objective.

For-profit corporation that managed public charter school's day-to-day operations was "recipient" of federal financial assistance through an intermediary, and thus, was subject to Title IX; it was undisputed that corporation received 90% of its funding from operator of charter school that it contracted with, and operator, in turn, received nearly all of its funding from public sources, including the federal government.

Title IX applied to sex-based dress codes promulgated by covered educational entities.

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