

Federal Appeals Court Holds Students Have a Constitutional Right to an Education

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In what is being hailed as a landmark decision, the United States Court of Appeals for the Sixth Circuit last month ruled that the U.S. Constitution guarantees all children a minimum basic education, meaning one that provides an opportunity for “foundational literacy.” (*Gary B., et al. v. Whitmer, et al.* (6th Cir., April 23, 2020, Nos. 18-1855/1871) ___ F.3d ___ [2020 WL 1951894]). Five students from Detroit, Michigan’s worst-performing public schools sued various state officials alleging that the horrendous conditions at their schools and in their classrooms resulted in their being deprived of “a basic minimum education.” The Court recognized that the U.S. Supreme Court has consistently addressed the fundamental importance of education, but had never ruled that obtaining a basic minimum level of literacy through public education is a fundamental right. The Sixth Circuit sided with the students and found such a right to exist.

Background

The students, who attended various Detroit elementary and secondary schools serving almost exclusively low-income children of color, claimed that the horrid conditions resulted in depriving them of the most basic educational skill: the ability to read. The core of their complaint was that the conditions in their schools are so bad – a lack of credentialed teachers, crumbling facilities, and insufficient materials – that the schools failed to provide access to even “basic literacy.” According to the students, they “sit in classrooms where not even the pretense of education takes place, in schools that are functionally incapable of delivering access to literacy.” Therefore, they argued the schools are “delivering no education at all” and are “not truly schools by any traditional definition or understanding.”

The deplorable conditions included many classes taught by non-certified paraprofessionals, substitutes and misassigned teachers lacking any expertise or knowledge of the subject matter, decrepit and unsafe facility conditions that failed minimal state health and safety standards due to overheated and freezing rooms, filthy bathrooms, crumbling ceilings and walls, leaking pipes, mice, cockroaches and other vermin regularly inhabiting rooms, mold and feces causing a stench in rooms and hallways, non-potable water in drinking fountains, lack of adequate curricular materials and books, and extreme overcrowding in classrooms. The students argued that the conditions are so deplorable that 90 percent or more of the students failed to meet state proficiency standards. In their schools, “illiteracy is the norm.” However, while lack of literacy is the crux of the students’ complaint, they claim the failure of the schools is uniform across



DANNIS WOLIVER KELLEY

Attorneys at Law

“nearly all subject areas;” the schools’ failure to teach the students to read left them unable to learn state-mandated content in all other courses.

Decision

The Court of Appeals focused on the students’ argument under the Due Process Clause of the 14th Amendment to the U.S. Constitution, which guarantees that no state shall “deprive any person of life, liberty, or property, without due process of law.” This clause has been interpreted to recognize that certain interests are so substantial that no process is enough to allow the government to restrict them without a compelling state interest.

Until this decision, no court had held that a “minimally adequate education” is a fundamental right deserving of protection under the U.S. Constitution. Here, the Court of Appeals found that it is, reasoning that education “has held paramount importance in American history and tradition,” because the role of “basic literacy education” is essential to the exercise of other fundamental, constitutionally-protected rights. As the court stated, “[e]ffectively every interaction between a citizen and her government depends on literacy.”

Because “basic literacy is foundational to our political process and society,” the Court found a basic minimum education is “implicit in the concept of ordered liberty,” and therefore is protected under the Due Process Clause. In addition, a basic minimum education is a means of achieving racial and economic equality in our society, another important reason for the Court’s determination that it is guaranteed by our Constitution.

Mindful that this ruling not be interpreted as requiring more than a “minimum” basic education, the Court noted that its opinion is “narrow” in scope, guaranteeing only “a foundational level of literacy” that it described as “the education needed to provide access to skills that are essential for the basic exercise of other fundamental rights and liberties, most importantly participation in our political system.”

Impact

While California and many other states guarantee students a free, public education (see, California Constitution, Article IX, section 5), and other lawsuits such as *Vergara v. California* and *Serrano v. Priest* have challenged the inequities in California’s school system, no court had previously held that states are required to provide any minimum level of educational outcome that guarantees students “basic literacy.” While this opinion arises from another state and is not precedential in California, and involves schools with truly deplorable conditions, it may nevertheless be a harbinger of litigation to come on behalf of students who attend any state’s lowest-performing schools.



DANNIS WOLIVER KELLEY

Attorneys at Law

If you have any questions, please do not hesitate to contact a DWK attorney in our Students and Special Education Practice Group.

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