

SNIFFEN & SPELLMAN, P.A.

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Supreme Court to Consider the Role of Children in Districting Maps

The U.S. Supreme Court heard arguments in the Texas case of *Evenwell v Abott*, addressing an issue that will affect local school board districts and state legislatures throughout the country. The issue faced by the Court is the meaning of who is a person for "one– person, one – vote." In other words, how should population based districting maps be drawn: based on all people or only voting age citizens? The Court will have to revisit a 1970 Supreme Court decision involving a Missouri law that counted apportionment of school districts based on the number of school age residents defined as between 6 and 20 years old. In its opinion in *Hadley v. Junior College District of Metropolitan Kansas City*, the Court struck down the Missouri law and found that it resulted in systematic discrimination against voters in more populated school districts. In the current case, the state of Texas defends its method of determining state legislative districts based on all persons including children and non-citizens. An opinion is expected before the Court goes out for summer recess in 2016.

Source: [Education Weekly](#)

Justice Scalia’s Remarks in Affirmative Action Case Offend Some

United States Supreme Court Justice Antonin Scalia has found himself in the midst of the long-standing debate over the “mismatch theory” of college admission. The mismatch theory refers to allowances made to college applicants based on their race, which is said to lead to decreased learning, lower grades, academic discouragement, and social segregation compared to what applicants would experience if they were to attend colleges more closely matched to their level of academic preparation. The “mismatch effect” is criticized by those who claim the research is based on flawed assumptions and that all students benefit from enrolling in the most challenging college that will accept them.

Justice Scalia entered the debate during Supreme Court arguments in the *University of Texas* affirmative action case when he asked whether black students might benefit from attending “a slower-track school where they do well” instead of a more selective school through an affirmative action program. Both sides in the case have provided extensive briefs on the mismatch theory, with several others providing amicus briefs.

Source: [New York Times](#)

Water J. Leonard, Pioneer of Affirmation Action in Harvard Admissions, Dies

Walter J. Leonard passed away on December 8 at age 86 from Alzheimer's disease complications. Leonard is credited with leading the charge in designing and implementing an admissions process at Harvard which has been replicated by colleges and universities across the country. His laudable efforts opened the door to higher education for many women and minorities.

The affirmative action formula, also called the "Harvard formula" allowed Harvard recruiters to consider race and ethnicity as one of many factors when assembling a diverse student body. The formula is now before the United States Supreme Court in a case involving the University of Texas. It has previously withstood four decades of constitutional muster, including the 1979 Supreme Court case of Regents of the *University of California v. Bakke*.

Leonard enlisted in the Coast Guard during World War II at age 15. He studied at various institutions including: Morehouse College, Savannah State University, Clark Atlanta University, and Howard University. He previously served as president of Fisk University in Nashville for seven years, where he raised \$12 million and restored fiscal stability to the historically black institution. He served as assistant dean and assistant director of admissions of Harvard Law School in 1969.

Leaving Behind the No Child Left Behind Act

On December 10, 2015, President Obama signed the Elementary Student Succeeds Act ("ESSA"), replacing the No Child Left Behind Act ("NCLBA"). The NCLBA was largely known for its emphasis on annual standardized testing and other federal mandates placed on schools. Among other things, the new law limits the role of the federal government in education and gives more control to state and local governments. To be clear, the new law will not eradicate standardized testing; however, states will now have more discretion in determining a more comprehensive range of factors in their accountability systems (e.g., teacher engagement and success in advanced coursework).

Source: [Education Weekly](#)

Department of Education Provides Guidance on Partnering with Single-Sex Voluntary Youth Programs

On December 15, 2015, the U.S. Department of Education's Office for Civil Rights ("OCR") issued a Dear Colleague letter ("Letter"), providing guidance on ways in which schools can partner with voluntary single-sex programs and still be in compliance with Title IX. Generally, Title IX prohibits schools that receive federal funding from discriminating on the basis of sex. Accordingly, the law also prohibits schools from providing "significant assistance" to outside organizations that engage in sex-based discrimination. The Letter sets forth some factors that are considered in determining whether a school's contributions would be deemed "significant assistance."

As an exception to the general rule against sex-based discrimination, Title IX allows schools to provide significant assistance to a voluntary youth service organization even if the organization

limits its membership based on sex. Therefore, a school would not be in violation of Title IX if it provided significant assistance to a voluntary service organization limited to members of a specific sex.

Source: [Department of Education](#)

Policy Drafted for Transgender Student Athletes in Nebraska

Nebraska wants to assure a level playing field. The Omaha World-Herald reported that the Nebraska School Activities Association (“NSAA”) has drafted a policy that would give parents and local school districts the discretion to determine when transgender students can participate in high school sports. Pursuant to the proposed policy, parents would need to notify the school if the student identifies with a gender different from what is listed on the birth certificate. The school then decides whether to pursue a waiver from the NSAA. The newly formed Gender Identity Eligibility Committee is tasked with evaluating any such participation requests. Appeals from the Committee may be taken to an association committee.

While private facilities may be provided for students, if available, transgender students who are approved to participate in sports but have not had sex reassignment surgery would be required to use locker rooms and restrooms associated with their gender at birth.

The NSAA proposal is still being reviewed and will be debated during six district NSAA meetings next month. If three out of the six districts approve the proposal, an NSAA general membership assembly will then consider the bylaw changes in April 2016.

Source: [Houston Chronicle](#)

From the Lighter Side: Burglary Suspect Eaten by Alligator

Matthew Riggins learned the hard way why one should not run from law enforcement. Broward County Sheriff’s Office (“BCSO”) deputies responded to calls in the Barefoot Bay community after two men dressed in black were seen suspiciously walking behind homes in the neighborhood. Riggins and another suspect ran from responding law enforcement officers and Riggins was later reported missing. BCSO dive team members found his body ten days later in a lake near an 11-foot alligator. The gator was euthanized and some of Riggins’ remains were found inside the body.

Source: [USA Today](#)