

SYMPOSIUM PANEL DISCUSSION

LEARNING TOGETHER: MODERN DEVELOPMENTS IN EDUCATION LAW

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Panelists

ANGIE SANDERS,^{*} JORDYN CONLEY,^{**} & LAUREN BUSH^{***}

Moderator

ANDREA GEMIGNANI[†]

Natalie Anders:^{††} We're going to get started again with our panel discussion. We have our three panelists up here. We have Angie Sanders, Jordyn Conley, and Lauren Bush, and the discussion will be moderated by our very own Professor Gemignani. So, without further ado, I'll let Professor Gemignani do some introductions and kick us off.

Professor Gemignani: Thank you, Natalie. Thank you all for being here, and thank you to our panelists. I'm just very excited to sort of make this connection with you and conversations we were having this morning and sort of on the ground what we're seeing in practice. And we're excited to have such a variety of viewpoints here.

So, I'm going to start at the far end and sort of introduce coming back toward me. Angie Sanders has served as the General Counsel for the Tennessee State Board of Education since 2018. As General Counsel, Ms. Sanders advises State Board of Education members and staff on all legal matters relating to K-12 education in Tennessee. She plays a key role in crafting board rules and policies to ensure compliance with existing law, engages with education stakeholders, including Tennessee Department of Education, the Tennessee General Assembly, as well as local school

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districts regarding education issues, and oversees a team of attorneys who handle educator license dispute matters for all licensed educators in the state. She began her career as an attorney in the Nashville Office of Lewis Thomason and working primarily in education and business law practice groups advising school districts and businesses regarding a variety of matters, including employee and student discipline, employee and student rights, special education and disability accommodations, business formation, contract negotiations, and franchise issues. So, lots of experience up here, even just in one person.

We turn to Lauren Bush. Lauren is a graduate. She's an alumni here of Belmont, so we are excited to have her back with us. Lauren has also served in several different roles. She has served as the Assistant City Attorney for the City of Murfreesboro since July of this year, so that's her newest role. In this role, Ms. Bush provides legal counsel and representation to both the city of Murfreesboro as well as Murfreesboro City Schools. Prior to July, she served as a staff attorney for both Wilson County Schools and Rutherford County Schools, Deputy General Counsel for the Tennessee Department of Education, and the Deputy Director of Policy and Student Services for Wilson County Schools. So, we are excited to have that school perspective.

And then Jordyn Conley has served as an education attorney at the Nashville Defenders Education Rights Project since 2021. In this role, she provides legal representation to families in school meetings as well as discipline appeals. She also practices as a guardian ad litem and serves as an educational surrogate for children whose parents are not available to make school decisions. She is a graduate of Vanderbilt Law School, and she began her legal career as a criminal defense attorney in the Nashville Defenders General Sessions team. So, we have a variety of experience and we're excited to sort of hear how this is all coming together on the ground.

So, I guess where I'd like to just start is have each of you tell us a little bit about sort of your background and how it drew you to education law practice in the first place and got you to where you are now. So, maybe Jordyn I'll start with you.

Jordyn Conley: Yeah, sure. So, I attended Fisk University here in Nashville, and then as the professor mentioned, I went to Vanderbilt Law to get my J.D. I went to law school knowing I sort of wanted to help people as public interest types say, but I didn't know what that would look like necessarily. Especially as a first-generation college student, first-generation law student, I didn't know what types of careers that could turn into. So, I did a Gideon's Thomas Fellowship, which is the National Public Defender Training Program, and ended up here in the Nashville Public Defenders' Office. I enjoyed my work to an extent, but it was really, really easy to see that had early interventions happened for my clients, educational interventions, mental health interventions happened for them, they may

have not ended up so entrenched in the legal system. So, our office is lucky to have the Education Rights Project as a juvenile delinquency prevention and reduction program. So, when a space opened up in our program, I went ahead and applied, and I really enjoyed getting to do the preventative side work in the criminal legal system with our same clients.

Professor Gemignani: Thank you. Lauren.

Lauren Bush: I came into law school very passionate about education. I didn't know that this was necessarily a career path that you could [have with a legal background]. So, a lot of times it's a quasi-legal. I've done a lot of quasi-legal things. I've served as a deputy director of a school system, a large school system here in Tennessee. And then I worked with the Department of Education and just kind of followed where the winds are taking me at this point.

There are a lot of unique challenges for school districts within Tennessee when we talk about education law. I think you do have to frame a lot of the work that we do with the perspective that we're working with educators who do not have a legal background.

Your directors of schools are lifetime educators who don't have a legal background but are making highly legal decisions on a day-to-day basis. So, a lot of what I do is like firefighting. So, I put out a lot of fires. I drive a bus when I need to. I drove a bus yesterday. Bus driver shortage, staffing shortage, those are all challenges that we're going to have to figure out because those do have direct impact on the services that education can provide when we do have those staffing shortages because transportation is a related service when we talk about IDEA, teachers provide those special education services when we talk about IDEA, and there are not very many of individuals out there who are wanting to do that work. So, I can talk about that perspective a little bit. But I'm very passionate about education, very passionate about education law. I'm so excited that I found this. I wake up and I get to do this every day. That's exciting to me. And I'm very excited to be back at Belmont Law because it's kind of déjà vu a little bit.

Angie Sanders: Hi, everyone. I'm Angie Sanders. I'm excited to be here as well. I did not really—kind of like Lauren—know that education law was really a practice area that I could get into when I was in law school. I don't really remember—I went to St. Louis University School of Law—I don't remember there being any education law courses offered beyond education case law that we discussed in Constitutional Law, for example. But I was always very interested in it. And then when I came to Nashville, my first job out of law school was with Lewis Thomason, and they have one of the largest education law practice groups in the state. A few other firms have expanded into that area more recently, but I had a really exciting opportunity.

While I was doing mostly business law, some of the education attorneys started being like, “Hey, can you come do some work on some of these cases?” And so, I sort of slowly started to transition from doing the majority of business law contracts to employment law, which kind of touched on education law, and then before I knew it, probably 60% of my work was working with school districts reviewing their contracts, helping advise boards, also on employment issues. And then I really was like, “This is just a really interesting area.” It felt very meaningful in terms of sometimes business, corporate law can feel a little bit like a cog in a wheel. And I really saw that I was having impact on what was happening in education in Tennessee.

And then when the opportunity to move to the State Board of Education presented itself, I just jumped at that because it really is taking that to the next level of really being able to have a direct impact on kids. And so, the meaningfulness of the work, I think, is really what drew me to this area. And just like Lauren said, there's never a dull moment. I mean, Title 49 is thick for a reason. Education covers and touches so many aspects of literally everyone's life.

Professor Gemignani: Thank you. That sounds amazing. I enjoy education law practice as well. And I'm curious to have each of you just talk a little bit. I know that there's a variety of issues that come up. You're putting out fires, you're dealing with everything from students to teachers to everything going on. Could you just share maybe a little bit for our students or the others in the audience, what do you think is the most common legal issue or a typical day for you? What are the things that you're just seeing day in and day out?

Jordyn Conley: Yeah, I can start. I actually had to jot down some notes because we see a lot of legal issues in our practice. So, I would say Child Find issues we see a lot. So, failure from the schools to locate and evaluate children with disabilities. Failure to implement our kids' IEPs. Whether it's for lack of resources or lack of know-how, we see that the services in our children's IEPs just aren't happening at the schools pretty often. Or refusal to put services in the IEP that the child needs to receive a free appropriate public education of FAPE—we have to fight hard sometimes for those services that our kids really need.

I would also say issues with discipline procedures. Suspending kids and expelling kids for things that the discipline code doesn't actually allow, or suspending them for too long, or informally suspending them, right? And then I guess the last thing I sort of jotted down was disenfranchisement of our parents. We often see that the schools say they want our parents involved, but I represent indigent folks, so they're working, they have a lot to balance. It's really important to my clients specifically that the schools are able to meet, as the law requires, at a mutually convenient time and

place for them. And we often don't see those efforts. So, our parents don't have the ability to really meaningfully participate in their child's educational decisions. And they know their kids the best. So, fighting for my client's rights to participate in their own child's education, which seems wild, but it's the reality of my practice.

Lauren Bush: In my practice, there's a lot of intersection between federal law, state law, state board regulations, Tennessee Department of Education. And here, very recently, it seems like a lot of times those things conflict, so figuring out what the school system should do right when the river meets the road can be difficult for my client, who is the school board. How do we enforce these specific regulations, Title IX, right? So, Title IX is a big one right now with schools. We heard a little bit about it this morning, but providing accommodations for transgender students when our state has filed litigation against the U.S. Department of Education on enforcement on that front. Figuring out how to go around those. And also, you're serving your community, right? So, you've got to take into account your community needs, your students' needs, a lot of different viewpoints.

And I don't disagree—someone had said earlier we're becoming the crossroads for a lot of our political debates—and I do, I see that every day, so that has been difficult. Resources are always going to be a challenge. For us, as educators, there are not a lot of educators graduating from colleges now, so there can be a big shortage there, bus driver shortages. We've already talked about that. That's going to continue to be a challenge. But really interpreting and trying to figure out solutions when you have very limited resources where you legally have to provide services but there's no one there to provide services. That's when you have an attorney driving a bus, right? That's what happens. That is the reality of the day to day. In a school system, [it] is who can do what and make this happen for our kids?

Angie Sanders: I would say my context is a little bit different being at the state level, so I'm sort of a level removed from what's happening on the ground. And my board's role is to create rules and policies that live under the laws that are passed by the General Assembly. And so, it's a little bit different than at the federal level. We have to have very specific statutory authority to create rules on a particular subject. And so, a lot of what I'm doing is figuring out, do our rules and policies comply with the state law on this issue? Do they comply with any federal laws that may touch on this issue? But also thinking more broadly about the types of things that come up on a daily basis. It's definitely educator licensure. Our board is spending a lot of time thinking through, “How do we address this teacher shortage?” And I think it depends kind of on the area that you're looking at. But how are we getting more people to come into the classroom while also maintaining that rigor and that content knowledge that you want to see from teachers? We're also looking a lot at things like school and

district accountability. We hear a lot of questions about textbooks and standards of materials.

I know there's been a lot of talk in the media and in our state lately about what textbooks and materials are appropriate for kids. I know the third-grade retention law has been on a lot of minds and hearts. And I think I've answered more questions from friends and family about this law on third-grade promotion and retention than about anything else. And then, even though I don't deal directly with some of these issues like Title IX and Civil Rights, we still get calls all the time. And we do have some rules that touch on that. But it's a lot of letting parents know like, "Here are the resources available to you. Here's someone at the Department of Education who is more directly responsible for helping families work through these issues. Here's who you can go to file a complaint," that sort of thing. So, trying to direct parents in the right direction.

Professor Gemignani: I think raised a lot of the issues even that we started talking about this morning that you're sort of seeing on the ground. This idea of being at the crossroads, right? In sort of so many things that are going on. And I think in each of your positions, you're necessarily navigating in diverse, competing viewpoints, competing expectations, differing shareholders. Sort of in your attorney role on the ground, how are you navigating those crossroads, whatever they are for you, whether it's between parents and schools, whether it's between the state and federal requirements? What is the approach to navigating those crossroads?

Lauren Bush: Very carefully and a lot of coffee [laughter] is my approach. But my board is seven people. There are boards that are larger. And so, each of those individuals is coming, and they may or may not have a background in education, so they're coming into their role as a board of education with different perspectives on where they want to go. And so, you have to remember who the client is, right? I represent the board as a whole. And so, figuring out, especially with things like charter schools, how we're going to approach those specifics. It comes down to, what does the law allow? And a lot of times we are using that state law. We're using state board rules and regulations. We are also looking at what other school districts are doing, right? So, it's sometimes misery loves company. And we're like, "Okay, how's everybody else addressing it?" But I think too, there's a component when we talk about education law in the academic sense, there is a component because you are serving the community of things that you have to think about, right? So, *Fry v. Napoleon*, you guys may not know, there was a dog at the center of that and whether the dog could be an accommodation or a reasonable accommodation. And it was a Goldendoodle named Wonder. And I would never take that to court because you cannot go up against the Goldendoodle named Wonder.

[audience laughter]

Lauren Bush: You just can't. You're not going to win it. I don't know what that school district was thinking. But those are the things that we have to anticipate is, "Here's what the law says that we can do, but we're also stakeholders for our community, and we take that very seriously. How can we interact and engage our parents, especially in the sense of IDEA and 504, to ensure that we're doing good by our kids?" Because at the end of the day, that's what we're here for.

Professor Gemignani: And we have a lot of stakeholders in education.

Lauren Bush: That is right.

Professor Gemignani: A lot of different voices. Anyone else want to jump in on the idea of sort of navigating those diversity points?

Angie Sanders: I mean, I think we deal with that a lot at the state level because we're not only dealing with a diversity of viewpoints from, let's say, the General Assembly and their view on what a particular law and its implementing regulations should look like, what districts need, and what they're seeing on the ground and making sure that we're crafting rules and policies that can be implemented and yet still comply with the law, and then also, what we're hearing from parents and stakeholders on the ground. And a lot of times that just looks like trying to get everyone to the same table, and it looks different depending on the staff and our ability to have connections and discussions with those different stakeholder groups versus our board members who are trying to get out and meet with superintendents and more district focus, board member focus. And so, getting all of that information and compiling it and then trying to sit down and figure out, "How can we—?" Because there's usually some common ground. Figuring out where is that common ground? What can we agree on versus talking about all the things we disagree on? And then navigating it based on that shared understanding. And at the end of the day, the way that my board approaches it and the mandate that we've been given is when we can't agree, right, and understanding the context of the law layered over this and that we have to still comply with what the law requires of us, at the end of the day, we're always going to do what's best for kids. And that is, I think, just such a helpful North Star when we're thinking about crafting policy at the state level is, ultimately, some of these issues may be adult issues and may be funding issues, whatever it is, but we need to ultimately try to do what's best for our kids.

Jordyn Conley: Okay. I can jump in just briefly. Yeah, I would say in my practice, we have to balance the real-life limitations of the system, but like Lauren said, remembering who your client is, right? So, I always try to operate with the client-centered approach. But my clients specifically, because I work with children with behavior issues that do make them at risk for involvement in juvenile court, we don't have the option of private placement if the IEP team can't come to a consensus and due process is not fruitful. So, we have to be—we have to approach these meetings and these school teams with a spirit of collaboration and make sure that we aren't burning bridges because ultimately, our kids have to continue to go there. So, I think it's probably a little more simple because I represent a singular family or singular parents and student, but we try to keep those and balance those interests.

Professor Gemignani: Thank you. And you brought up and we heard this morning [about] this intersection of discipline, the impact on facilities, the disproportionate potential impact on the juvenile court involvement for lack of Child Find. I think you've mentioned some of those pieces. What trends are you seeing sort of in the student discipline context right now that maybe are connecting to some of these concerns, and then from the school perspective or from the board perspective, what are we seeing as impacts of changes to policies, whether it's minimum age or what they can be disciplined for, or the new advent of zero tolerance policies and how those are interacting? Could you talk a little bit about sort of student discipline on the ground?

Jordyn Conley: Sure. Where to start? [laughter] Yeah. I mean, the overuse of the exclusionary discipline is, I mean, probably the cornerstone of my practice and the bane of my existence. But we know that suspension and expulsion are just so heavily correlated with juvenile justice involvement, with kids feeling ostracized, feelings that they don't want to continue in school—they want to give up. And so, every single time we use suspension, whether formal or informal, and I can talk a little bit more about informal removals, we're sending a message to our kids, especially our kids who are vulnerable for whatever reason, whether that's race, sex, disability status, we're sending a message to them. And every time we suspend them, they're less likely to come back and graduate and more likely to be involved in the juvenile justice system and re-offend later on.

So yeah, I would say we see a big use of—a big overuse of exclusionary discipline in our schools. While the trend, I think, is going down, at least in my district for suspensions and expulsions, we always try to scrutinize the data. The overall numbers might be going down, but why is disproportionality going up? Why are Black students and Latino students still getting suspended at higher rates, and students with disabilities, at higher rates, even though the trend is downwards, right?

So, we need to look at that and what it means for the implicit bias in our schools, our school policies, and the specificity with which they're written and applied to our students. And then I think informal removals are becoming a bigger and bigger issue as we are able to crack down on some overuse of exclusionary disciplines. We see schools removing children more informally. So that looks like calling parents and saying, "Hey, your student's having a difficult day. Why don't you come and pick them up and we'll try again on Monday," right? But for our students with disabilities, that has even more ramifications because the schools can only suspend them up to ten days before having a manifestation meeting to determine whether that offense is disability-related.

When we informally remove our students, we don't count those days toward the ten. And so, we're suspending and removing students with disabilities without ever asking why this behavior is happening. So, I could go on and on about that [laughter] as you can tell. But we really try to hold our schools accountable while extending grace and empathy, but also holding them accountable. If you are going to remove a student, if you are going to send them home and make them miss instruction, you have to count it. You have to write it down. It needs to be official because it's so important for a variety of reasons, so.

Lauren Bush: I feel a little differently about exclusionary discipline, obviously, working with the school system. But I mean, I do understand. Again, academic framework, understanding from an academic perspective, why exclusionary discipline would have a negative impact on students. But I also understand, logistically, if you have a student come in and seriously injure another student or a staff member, you've got to have some time to make plans with that teacher or with that administrator. And I can list off several, several instances. It happens every day. So, if you have a student that comes in and breaks a principal's foot, right? You have to figure out, "What are we going to do with that student?" If you have a student that comes in and repeatedly wrecks the classroom, you do have to have some time to figure out, "What are we going to do with the student?" And so that gives us a little bit of time to explore some of those options at the school level because again, we've got limited resources, we've got limited classrooms, we've got limited ability to—and again, I think it too goes back to we could have a broader discussion about what is the school system's role at the end of the day? And I do think that that is something that has evolved, especially with the IDEA and 504. But it is not now just to provide education.

We are having to stand in a much larger parental role, right, for some of our students. So, making sure that they have access to mental health resources, making sure that they have access to food, making sure they have access to clothing, making sure they have access to community resources, transportation. It's broadened, right? So, it's not just you're

coming to school to learn today, it is what does the school need to provide you in order to do that?

And so, I do think exclusionary discipline still does have a place in our schools. I think it's got to because we've got to have some flexibility to figure out for especially violent students, how can we accommodate you? How can we figure out a way to meet your needs but still have you access to education at the same time? I do think, too, there could be a broader discussion about student access.

So, we saw it last year, and actually in Wilson County, we had to create a program because we were expelling and excluding so many students for vaping, right? So, access to vaping. So, it's kind of like a—but Tennessee changed its law to where hemp products could be bought, right? Still illegal for underage students, right—underage children—but made it a lot more accessible because it started being sold in gas stations and places where children could get them. And so, we saw a large uptick, a 200% uptick in students vaping at school using Delta-9, Delta-8, things that would be considered controlled substances at the federal level, but because of our state law, were now considered legal. And that was something that we were not prepared as a district to deal with. And we were blindsided by it and had to institute some programs, so we did. We did a first offense, you had to do ISS, but you also had to get involved with a program and listen to a program provided by the federal government. And then second offense is a Saturday school. And then third offense, we started talking a little bit more about that exclusionary discipline piece.

But again, you have to think about it as a safety context. You can't have people bringing in vapes to school. You can't have students bringing in vapes to school. And we're talking 6th grade through 12th grade, right? Even some 5th graders. So those are the things that you really have to think about. Exclusionary disciplines, very easy to point to it and say, “Oh, that's bad.” But you've got to think about the day-to-day standards. We're dealing with some pretty tough things in our school system, and I think because our children have access to internet and have access to cell phones, they're dealing with things that we probably did not have to deal with—I know we did not have to deal with as minors and as students when we were in school.

Angie Sanders: I mean, from the state context, I mean, obviously, I'm not in the weeds as much as Lauren and Jordyn are on this, but I can speak to more generally, I think, a lot of the conversation at the state level here has been focused a lot more on student mental health. And what we're hearing from districts is that, especially coming out of Covid, the behavior issues that are showing up in the classroom are just so much more severe than they've ever been, and a lot of that is coming out of students being at home and potentially being exposed to adverse childhood experiences at home that otherwise, if they were in school during Covid, that they may not have experienced. And so, trying to figure out how to get more resources to

schools to help them deal with the mental health issues that students are presenting with, in addition to things like what IDEA supports are there.

It's a multifaceted issue because it also shows up in our educator license discipline work. Our teachers are having a hard time dealing with these behaviors. They are not equipped or trained to deal with some of this more severe behavior. And so, then they are doing things that they probably otherwise wouldn't have done because they don't have the resources or the training to be able to respond appropriately. And so, then they are not only being disciplined at the local level, but they're coming to us for potential consideration of licensed discipline. And so, we're having to look at a number of factors, not just, yes, did Ms. Susie do this? And is this a violation of the state board rule? But what was going on around? Did she call for help? Did she have training on this? We do try to consider the larger picture, so.

Professor Gemignani: Obviously, there's a lot going on in schools. Bringing up Covid, I think is a good point. Mental health issues are clearly a challenge. One of the things I was curious about when Professor Nicholson was talking, and I think we had some questions about it, there are lots of rules we can change and say, "Okay, now you can't discipline these kids," or, "Okay, now you have to follow these processes." Are there things, innovations you've seen on the ground, in your work, and preventive measures that are being taken, approaches that have been effective to try to address some of these big concerns that you're seeing? So, whether it's the shortage of teachers or the discipline in schools or the need for a different type of discipline than these informal measures, they're all a response to something. But have you all seen anything in your practice or in your interactions with other school districts that you felt like these are effective things, we are making positive change, we have found some ways to address some of these larger issues? That's a big question. Start wherever you want.

Lauren Bush: So, there are a number of districts within our state that were identified as being significantly disproportionate with regard to disciplining students, and that's a federal requirement. So, when you are identified, when your school district is identified, is that you have to set aside so many funds, federal funds that would otherwise be used for special education to identify those problems. And I know a lot of school districts in doing that have looked at mental health supports. So mental health supports in the school, but also training your teachers on what to do when you do have a child that breaks down in the middle of class, how to respond to that. That has been very helpful for a lot of our educators. So, figuring out how to get those resources, receiving ESSER dollars with regard to Covid. So, there were three iterations of ESSER funding, which was the Covid relief

situation from the federal government. We were able to invest a lot of that money into those mental health resources.

We also bought a lot of HVAC systems, obviously, [laughter] but we were able to really look at, “What are we doing from a behavioral standpoint for our students on a day-to-day basis?” And so that has been very helpful. Again, though, I just can’t stress enough, if our resources are limited, our response is going to be limited. And so, we’ve been very fortunate in the last four years to be able to identify some additional resources and invest in those resources. But if we don’t keep up the investment, we’re not going to be ready to address those challenges as they come up.

Professor Gemignani: We can jump into—I know we’ve got lots to say and limited amounts of time, so I want to touch on some of the other conversations that we were having this morning. And we had two different panelists talking a little bit about versions of Title IX and sort of what is on the ground with issues related to Title IX, whether we heard about it in the university setting, we heard about it in student regulations coming down the pike. Maybe I’ll stop there for a second. How, in your practice, are you responding to sort of the constantly changing laws? So, at the federal level, it’s this, at the state level, it’s that. We now have regulations changing every four years. How is that impacting your practice? And maybe I can start with you, Angie, because I imagine the changing policies impact you a lot.

Angie Sanders: Yeah. I mean, from the state board’s perspective, I mean, we’re charged with implementing state law. And so, it’s a little bit of attention for us because we recognize that there may be some disagreement about whether or not a state law comports with a federal law or a federal regulation. And our charge is to implement that state law unless told otherwise. And so, the changing federal regulations, while they don’t directly impact us, I know they’re directly impacting school districts, and they’re struggling with this push and pull of like, “Well, I have a state law that says I need to do X and a federal guidance that says I need to do Y. And where’s the middle there?” I mean, how it’s affecting my work is there’s a circuit split on this issue. We spend a lot of time talking about that. My client’s involved in litigation on Title IX right now when it comes to participation in athletics because our state has a law on that specifically. So, I can’t go too much into that, but it’s affecting us in that we’re currently litigating the issue.

Professor Gemignani: Lauren, anything on sort of the changing rules or maybe how much of your time you’re dedicating to this?

Lauren Bush: It definitely keeps me up at night. I will say that I—so for those of you who don’t know, our state has what they call the

Tennessee Accommodations for All Act. It has been challenged. It was initially challenged in Wilson County while I was there. And what that law does is basically say, “School districts, you can allow transgender students to use the bathroom of their gender identity all you want to, but if a student takes issue with it, for whatever reason, they or their parent can challenge it and you have to accommodate that student and allow them to use the bathroom of their own choice or make arrangements for them to have a bathroom where they're not going to be interacting with a transgender student.” And it was challenged in Wilson County. The two families that challenged it in Wilson County moved, so that was not fully litigated there. It's being fully litigated in Williamson County right now. But that's an example of where it could be potentially difficult, especially if you're trying to comply with the federal guidance to say students can use the restroom of their gender identity but then you've got fifty students who come to you and say, “I want to use a different bathroom because I'm offended or my parent is offended by this,” then you've got to figure out, “Okay, how are we going to make that work?” Because again, we have limited restrooms. We do not have an unlimited number of restrooms in a school system and a school district.

And so even talking about kind of in construction projects moving forward, how can we minimize the disruption? So, I do think it's good that we're having those conversations, but it is also very confusing. I would love a Supreme Court decision just so I could be able to say, “This is what it is,” instead of trying to guess at what is going to be the less legally risky option. And a lot of times, that's where we are. It's, “Where is the less legal risk and how do we assess that?” And then guide my client in that way.

Professor Gemignani: And it sounds like even this morning we were talking about—and I'm going to switch to First Amendment and *Kennedy* and those sorts of things, and Professor Waldman. And she was talking this morning about sort of putting up that chart like, “Okay, now we have this rule.” But what does that look like, right? How do I advise my client and say, “Now this is the rule, right? This is the new rule. It's changed. We're now going to try to do something else.” And how do I implement it on the ground, right? Are you seeing it in the First Amendment context as well? Are you seeing that overlap between First Amendment rights and maybe some of the transgender issues? I thought the pronoun issue sort of carried across several of our pieces.

Lauren Bush: That's right. Yeah. And we do have the state law now, too, that says teachers don't have to use the names of the students. And I don't know that that's been challenged or not yet, but that was passed last year. And so that creates issues too. And so, you have to try to navigate, “This is what our law says. This is what our state law says. Has it been challenged?” I feel like sometimes I'm just trying to keep up with cases. It's

a full-time job. But figuring out how to apply that in a First Amendment. First Amendment comes up all the time in my practice because students are saying stuff, teachers are saying stuff, the community is saying a whole lot, and what can we do from a school district's perspective to limit that? And there's not a lot.

Professor Gemignani: A lot to do. First Amendment came up in your practice at all in terms of your students who are being disciplined for speech, for running up against zero-tolerance policies related to threats? How are you seeing it?

Jordyn Conley: Yeah. To be honest, the First Amendment issues don't really come up in my practice. But as far as changing laws and policies, I feel like we're just always waiting to see what our legislature does next and trying to work with our families and schools to figure out what that looks like. We just had a question come up recently for a case we're contemplating taking. It's a third-grade retention case. So, this is a third grader who is retained, who we think that there's a Child Find issue, right? This child should have been evaluated for an IEP. Had they had an IEP, the IEP team would have made a decision maybe to move this child, to promote this child to fourth grade. But she didn't have an IEP because the school failed to evaluate, right? So, what does that look like? And the lawmakers, I don't think, thought that through. So, we're just left figuring out issues on the ground.

Professor Gemignani: Angie, do you have anything you want to share on the student or teacher level maybe related to some of your relationships?

Angie Sanders: As you were saying, yeah, I was actually texting with my team about this earlier because I think where it probably comes up the most is in our license discipline work. And I don't know that we can trust necessarily that a district's discipline of an employee for a particular statement that they've done that First Amendment analysis. And so also thinking like, "We don't want to get pulled into a lawsuit from a protecting my client standpoint of like, well, now the district has disciplined them and then we've decided we're going to also discipline their license." People tend to get a lot more worked up when it's not a three-day suspension anymore and three days of pay, it's now like potentially this license that I've worked for my entire life is going to go away for a short period of time or potentially permanently. And so, thinking about doing that analysis in the context of whether we're going to recommend license discipline, for sure.

Professor Gemignani: And I want to sort of close with we still have several law students in the audience and those who are interested in

education law and sort of coming back to the beginning of how you found your path. But I'm curious what advice you would share with them? What do you recommend for those students who are interested in pursuing a career in education or the overlap of law and education? I'm starting here. You get the hot seat.

Jordyn Conley: Yeah, I would say get out of the law school, go and be in the community and experience what it's like there, whether that's through an internship, a mentorship. But oftentimes, I think law schools funnel us on certain paths. And so, if you want to do something a little bit different, a little bit out of the ordinary, you have to be really steadfast in making that happen for yourself. So, I think if your school doesn't have that community necessarily, then finding it out in the larger community can be really helpful. That was my experience as a student.

Professor Gemignani: Lauren, any advice for our students?

Lauren Bush: A CDL really helps. So, if you're [laughter]—I'm kidding. I'm kidding. But I will say there are not very many of us as education law attorneys, so you're really either representing the board or you're representing parents. And either way, you're probably going to end up having to be a public servant at some point. So, getting an idea of what governing body you want to work for, whether that's at the state level or the local level, those are all options. I will say a really great internship opportunity locally would be working with the administrative law judges. I know that they take interns. A great opportunity there because a lot of what we do when we do litigate is through the administrative law courts. And it is very formal now, so you do get that trial experience, too. I would say too, a lot of our local education agencies have internship opportunities available. I've had several interns from Belmont work with me and it's been a great experience, I hope, for them. Definitely for me because I got a little bit of my work taken care of. And then two, Tennessee Department of Education—do you guys have interns too? I don't know if you do, Angie. But those internships are available as well.

Angie Sanders: Yeah, I was going to say the same thing about internships. Definitely with state agencies, State Board of Education, we've had some wonderful interns come from the Belmont Law School, as well as the Department of Education, and also thinking legislative internships. Those are so valuable. I see people all the time at the state level who really started out as a legislative intern. One of our attorneys started out as a legislative intern. You learn so much valuable knowledge about the legislative process that really translates into your work, even if that's just understanding legislative intent and the way a bill works its way through

our state's General Assembly. So, I'd highly recommend that. I agree, the education context also touches a lot on administrative law.

I have honestly been surprised. I will get calls from law students from really all over the country who are just like, "Hey, can I meet and have coffee with you?" and then that ultimately turns into potentially an internship or me letting them know like, "We might not have a spot for you, but you should call Christy Ballard over at the Department of Education, and she may have an internship for you." And so, I think that's really an effective tool.

Just get on Google and start Googling people that are working in areas that you're interested in, and just reach out to them. And that's how I got my first job in Nashville. I went to UT for undergrad but did not have any family that had ever been an attorney. I went out of state for law school and so I knew it was kind of really on me if I wanted to come back to Nashville and Tennessee to practice. And so, I just started pulling a list of every alum from my law school that worked in Nashville, and I just started emailing them and being like, "Hey, can I grab coffee with you? Can I send you my resume?" And lo and behold, one of the people wrote me back. He's like, "Yes, I'll get coffee with you." And then sent my resume on to managing partner, and before I knew it, I had a job. And so, you just kind of got to do the grunt work to get yourself in the door. And I've heard people say, sometimes if the door's not open, you got to kick it down. I'm all for kicking down doors.

Professor Gemignani: Well, I think that is a great place to end. I want to thank our panelists for being here and giving up your time and the idea that those in the community, when you reach out to them, they're going to say yes, they're going to get coffee, they're going to answer. Maybe you don't even have to kick down the door because it's opened for you. But thank you all for being here.

[audience applause]