

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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**GEBSER ET AL. v. LAGO VISTA INDEPENDENT
SCHOOL DISTRICT**

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE FIFTH CIRCUIT

No. 96–1866. Argued March 25, 1998– Decided June 22, 1998

Petitioner Gebser, a high school student in respondent Lago Vista Independent School District, had a sexual relationship with one of her teachers. She did not report the relationship to school officials. After the couple was discovered having sex and the teacher was arrested, Lago Vista terminated his employment. During this time, the district had not distributed an official grievance procedure for lodging sexual harassment complaints or a formal antiharassment policy, as required by federal regulations. Petitioners filed suit raising, among other things, a claim for damages against Lago Vista under Title IX of the Education Amendments of 1972, which provides in pertinent part that a person cannot “be subjected to discrimination under any education program or activity receiving Federal financial assistance,” 20 U. S. C. §1681(a). The Federal District Court granted Lago Vista summary judgment. In affirming, the Fifth Circuit held that school districts are not liable under Title IX for teacher-student sexual harassment unless an employee with supervisory power over the offending employee actually knew of the abuse, had the power to end it, and failed to do so, and ruled that petitioners could not satisfy that standard.

Held: Damages may not be recovered for teacher-student sexual harassment in an implied private action under Title IX unless a school district official who at a minimum has authority to institute corrective measures on the district’s behalf has actual notice of, and is deliberately indifferent to, the teacher’s misconduct. Pp. 4–17.

(a) The express statutory means of enforcing Title IX is administrative, as the statute directs federal agencies who distribute education funding to establish requirements in furtherance of the nondis-

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crimination mandate and allows agencies to enforce those requirements, including ultimately by suspending or terminating federal funding. The Court held in *Cannon v. University of Chicago*, 441 U. S. 677, that Title IX is also enforceable through an implied private right of action. In *Franklin v. Gwinnett County Public Schools*, 503 U. S. 60, the Court established that monetary damages are available in such an action, but made no effort to delimit the circumstances in which that remedy should lie. Petitioners, relying on standards developed in the context of Title VII, contend that damages are available in an implied action under Title IX based on principles of *respondeat superior* and constructive notice, *i.e.*, without actual notice to officials of discrimination in school programs. Whether an educational institution can be said to violate Title IX based on principles of *respondeat superior* and constructive notice has not been resolved by the Court's decisions. In this case, moreover, petitioners seek *damages* based on theories of *respondeat superior* and constructive notice. Unlike Title IX, Title VII contains an express cause of action for a damages remedy. Title IX's private action is judicially implied, however, and so contains no legislative expression of the scope of available remedies. Pp. 4–8.

(b) Because the private right of action is judicially implied, this Court must infer how Congress would have addressed the issue of monetary damages had the action been expressly included in Title IX. It does not appear that Congress contemplated unlimited damages against a funding recipient that is unaware of discrimination in its programs. When Title IX was enacted, the principal civil rights statutes containing an express right of action did not allow monetary damages, and when Title VII was amended to allow such damages, Congress limited the amount recoverable in any individual case. Title IX was modeled after Title VI of the Civil Rights Act of 1964, which prohibits race discrimination in programs receiving federal funds. Both statutes condition federal funding on a recipient's promise not to discriminate, in what amounts essentially to a contract between the Government and the recipient. In contrast, Title VII is framed as an outright prohibition. Title IX's contractual nature has implications for the construction of the scope of available remedies. When Congress conditions the award of federal funds under its spending power, the Court closely examines the propriety of private actions holding recipients liable in damages for violating the condition. It is sensible to assume that Congress did not envision a recipient's liability in damages where the recipient was unaware of the discrimination.

Title IX contains important clues that this was Congress' intent. Title IX's express means of enforcement requires actual notice to offi-

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cial of the funding recipient and an opportunity for voluntary compliance before administrative enforcement proceedings can commence. The presumable purpose is to avoid diverting education funding from beneficial uses where a recipient who is unaware of discrimination in its programs is willing to institute prompt corrective measures. Allowing recovery of damages based on principles of *respondeat superior* or constructive notice in cases of teacher-student sexual harassment would be at odds with that basic objective, as liability would attach even though the district had no actual knowledge of the teacher's conduct and no opportunity to take action to end the harassment. It would be unsound for a statute's *express* enforcement system to require notice and an opportunity to comply while a judicially *implied* system permits substantial liability— including potentially an award exceeding a recipient's federal funding level— without regard to either requirement. Pp. 8–14.

(c) Absent further direction from Congress, the implied damages remedy should be fashioned along the same lines as the express remedial scheme. Thus, a damages remedy will not lie unless an official who at a minimum has authority to address the alleged discrimination and to institute corrective measures on the recipient's behalf has actual knowledge of discrimination and fails adequately to respond. Moreover, the response must amount to deliberate indifference to discrimination, in line with the premise of the statute's administrative enforcement scheme of an official decision by the recipient not to remedy the violation. Applying the framework to this case is fairly straightforward, as petitioners do not contend they can prevail under an actual notice standard. Lago Vista's alleged failure to comply with federal regulations requiring it to promulgate and publicize an effective policy and grievance procedure for sexual harassment claims does not establish the requisite actual notice and deliberate indifference, and the failure to promulgate a grievance procedure does not itself constitute discrimination in violation of Title IX. Pp. 14–16.

106 F. 3d 1223, affirmed.

O'CONNOR, J., delivered the opinion of the Court, in which REHNQUIST, C. J., and SCALIA, KENNEDY, and THOMAS, JJ., joined. STEVENS, J., filed a dissenting opinion, in which SOUTER, GINSBURG, and BREYER, JJ., joined. GINSBURG, J., filed a dissenting opinion, in which SOUTER and BREYER, JJ., joined.