# Deliberate Protection of Children or Indifference to Outcomes: *Deminski*'s Expansion of the Right to a Sound, Basic Education*

*In* Deminski v. State Board of Education, *the Supreme Court of North Carolina considered whether repeated harassment and bullying denied students of their right to a sound, basic education. Plaintiff, representing her three minor children, argued that she could bring a claim under the North Carolina Constitution for the defendant school board's deliberate indifference to the harassment. The court agreed with the plaintiff, and in an unprecedented move, expanded the right to a sound, basic education to account for structural deficiencies in the right and to ensure that North Carolina children have a meaningful opportunity to learn.*

*This Recent Development explores where the court broke ground under the state constitution and celebrates the goal of protecting children from bullying. At the same time, it argues that the court gave limited guideposts for analyzing whether a set of facts rises to the level of a violation and whether linking this right to the deliberate indifference standard serves North Carolina children or acts as a shield for responsible institutions.*

## INTRODUCTION

To remain civilized, our society needs to protect its most vulnerable members: children. In North Carolina, the judicial system plays a significant role in carrying this burden. Because of the earnestness with which we must approach protecting children, it is important our courts are precise and avoid creating unclear precedent that prevents resolution for victims.

Typically, when children face sexual harassment at school, the primary recourse is to file a Title IX claim under the Education Amendments of 1972.[1] Due to public policy considerations, many courts have rejected common law



1. Education Amendments of 1972, Pub. L. No. 92-318, § 901, 86 Stat. 235, 373–75 (1972) (codified as amended at 20 U.S.C. § 1681(a) (1972)) ("No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance . . . ."). Protection under Title IX of the Education Amendments of 1972 "encompasses sexual assault and other forms of sexual violence . . . ." Off. for C.R., *Title IX and Sex Discrimination*, U.S. DEP'T OF EDUC., https://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html [https://perma.cc/CN3L-TFLM] (last modified Aug. 20, 2021).

tort claims brought against educational institutions.[2] However, a recent Supreme Court of North Carolina decision enables individual plaintiffs to bring tort-like claims against individual institutions under the North Carolina Constitution.[3] Previously, individuals could only do so under federal statutes.[4]

In *Deminski v. State Board of Education*,[5] the Supreme Court of North Carolina "considered whether an individual may bring a claim under the North Carolina Constitution for a school board's deliberate indifference to continual student harassment."[6] The court held that the plaintiff stated a colorable constitutional claim and that the represented students did not have an adequate remedy at law.[7] This holding expands an earlier reading of the North Carolina Constitution established in *Leandro v. State*,[8] where the court held that "Article I, Section 15 and Article IX, Section 2 of the North Carolina Constitution combine to guarantee every child of this state an opportunity to receive a sound basic education in our public schools."[9] In *Leandro*, the court limited this articulation of rights, based on evaluations of student body performance and financial resources, to educational access and opportunities.[10] Building on this, in *Deminski*, the Supreme Court of North Carolina applied the deliberate indifference standard, as articulated by the U.S. Supreme Court in the Title IX context,[11] to determine when a defendant has violated a student's right to a sound, basic education.

2. *See* Brief for N.C. Sch. Bds. Ass'n as Amici Curiae Supporting Defendant-Appellee at 10–11, Deminski v. State Bd. of Educ., 377 N.C. 406, 2021-NCSC-58 (No. 60A20) [hereinafter Brief for N.C. Sch. Bds. Ass'n].

3. *See infra* text accompanying notes 6–13.

4. Until *Deminski*, individual claims like Deminski's were limited to private actions under Title IX in North Carolina. *See* 20 U.S.C. § 1681; 34 C.F.R. § 106.1. The U.S. Supreme Court's decision in *Davis ex rel. LaShonda D. v. Monroe County Board of Education*, 526 U.S. 629 (1999), provides a blueprint for a state court to follow, but it applied federal law. *Id.* at 633. Deminski pointed to instances, under federal law, where student-on-student sexual harassment denied a student their right to an education. Plaintiffs-Appellants' New Brief at 25–26, *Deminksi*, 2021-NCSC-58 (No. 60A20) (discussing *S.B. ex rel. A.L. v. Board of Education of Harford County*, 819 F.3d 69, 76 (4th Cir. 2016), which applied the Rehabilitation Act); M.D. *ex rel.* Schuler v. Sch. Bd. of Richmond, 560 F. App'x 199, 203–04 (4th Cir. 2014) (applying Title VI); Zeno v. Pine Plains Cent. Sch. Dist., 702 F.3d 655, 655–66 (2d Cir. 2012) (applying Title VI).

5. 377 N.C. 406, 2021-NCSC-58.

6. *Id.* ¶ 1.

7. *Id.* ¶¶ 21, 23.

8. 346 N.C. 336, 488 S.E.2d 249 (1997).

9. *Id.* at 347, 488 S.E.2d at 255.

10. *Id.* at 355, 488 S.E.2d at 259–60.

11. Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 632–33, 644–47 (1999).

This Recent Development applauds the intent[12] behind *Deminski*, while arguing that the court's expansion of constitutional protections for children fails to provide a clear standard to evaluate a potential violation. By adopting the deliberate indifference standard to establish a state actor's liability, the court applied a historically defendant-friendly standard, creating an uphill battle for plaintiffs.[13] Without more guidance from the court, plaintiffs across the state will likely bring claims, better suited for previously established federal schemes, against boards and other government entities.[14] In one breath, the Supreme Court of North Carolina both provides a new right of action for vulnerable North Carolinians while also potentially restricting liability and leaving vulnerable members of our society—children—unprotected.[15]

Part I of this Recent Development presents the background and support the *Deminski* court used to justify its findings. Part II analyzes how the court expanded the constitutional right articulated in *Leandro* and the potential implications of an unclear standard for identifying violations. Finally, Part III explores the unfortunate implications of tying the right to a "safe" and "sound" education to the standard of deliberate indifference.

## I. BACKGROUND OF *DEMINSKI*

In 2017, Plaintiff Ashley Deminski, on behalf of her three minor children, sued the Pitt County Board of Education and the State Board of Education in Wake County Superior Court, alleging the county and state boards were deliberately indifferent to the hostile academic environment at Lakeforest Elementary School, where the Deminski children were enrolled.[16] The plaintiff further alleged that the Deminski children were denied their constitutionally protected right to a sound, basic education.[17] The trial court denied the Pitt

12. The Supreme Court of North Carolina recently described the intent underlying *Deminski* as "recogniz[ing] and even expand[ing] the role of the [c]ourt to interpret and protect individual rights enumerated in the state constitution." Harper v. Hall, 380 N.C. 302, 2022-NCSC-17, ¶ 10.

13. Catharine A. MacKinnon, *In Their Hands: Restoring Institutional Liability for Sexual Harassment in Education*, 125 YALE L.J. 2038, 2041 (2016) (observing that the deliberate indifference standard "permits a wide margin of tolerance").

14. *See infra* Section II.B.

15. There is no question that there is a compelling interest for North Carolina to protect the most vulnerable members of our society: children. *See, e.g.*, State v. Bishop, 368 N.C. 869, 877, 787 S.E.2d 814, 819 (2016) (finding that there was a compelling governmental interest in protecting children from online bullying). This is especially the case when children with disabilities are involved, as was the case with the Deminski children. Brief for Disability Rts. N.C. as Amici Curiae Supporting Plaintiff-Appellants at 3, Deminski v. State Bd. of Educ., 377 N.C. 406, 2021-NCSC-58 (No. 60A20) [hereinafter Brief for Disability Rts. N.C.] ("Children with autism have a 50% greater risk of being bullied; [b]etween 41% and 66% of students with emotional disabilities have been bullied; 73% of students with mild intellectual disabilities were verbally bullied; and 63.7% of students with ADHD and other disabilities experienced at least one type of bullying behavior.").

16. *Deminski*, 2021-NCSC-58, ¶ 6.

17. *Id.*

County School Board's motion to dismiss for failure to state a claim.[18] The Court of Appeals reversed and remanded, concluding that abuse in the classroom does not violate a constitutional right.[19] The plaintiff then appealed to the Supreme Court of North Carolina on a petition for discretionary review.[20]

The facts in *Deminski* are disturbing. The Deminski children were subjected to repeated acts of simulated masturbation, exposure to their peers' genitalia, and a persistent barrage of offensive language and other acts of sexual harassment.[21] The plaintiff repeatedly notified her children's teachers, the assistant principal, and the principal of the situation, only to be met with general inaction.[22] Eventually, the plaintiff moved her children to another school.[23] The plaintiff sought compensatory and punitive damages, a permanent injunction preventing the Pitt County Board of Education from assigning or requiring her children to attend Lakeforest Elementary, and attorneys' fees.[24] The court broke its analysis into three parts: first, whether the plaintiff's complaint sufficiently alleged that a state actor had violated the children's constitutional right, second, confirming there was a colorable claim, and third, confirming that there was no existing state remedy.

First, the court examined whether "plaintiff's complaint sufficiently allege[d] a claim for relief under Article I, Section 15 and Article IX, Section 2."[25] The court relied on *Corum v. University of North Carolina ex rel. Board of Governors*,[26] which held that "officials and employees of the State acting in their official capacity are subject to direct causes of action by plaintiffs whose constitutional rights have been violated."[27] The court concluded that the Pitt County Board of Education, "clothed with the authority of the State,"[28] was a government actor, and that plaintiff had sufficiently alleged that the Board failed to protect the Deminski children's right to education under Article I, Section 15 and Article IX, Section 2.[29]

Next, the court confirmed that the claim was colorable.[30] A colorable claim is "[a] plausible claim that may reasonably be asserted, given the facts presented

18. *Id.* ¶ 7. However, the trial court dismissed the State Board's claims. *Id.* ¶ 6 n.1.

19. Deminski v. State Bd. of Educ., 269 N.C. App. 165, 174–75, 837 S.E.2d 611, 617 (2020), *rev'd in part*, 377 N.C. 406, 2021-NCSC-58.

20. *Deminski*, 2021-NCSC-58, ¶ 11 n.3.

21. *Id.* ¶¶ 2–3.

22. *See id.* ¶ 4 (explaining how the school insisted there was a "process" that would "take time").

23. *Id.* ¶ 5.

24. *Id.* ¶ 6.

25. *Id.* ¶ 16.

26. 330 N.C. 761, 413 S.E.2d 276 (1992).

27. *Deminski*, 2021-NCSC-58, ¶ 16 (quoting *Corum*, 330 N.C. at 783–84, 413 S.E.2d at 290).

28. *Id.* ¶ 19.

29. *Id.* ¶ 20.

30. *Id.*

and the current law (or a reasonable and logical extension or modification of the current law)."[31] In arriving at that conclusion, the court relied on *Leandro*, where the court held that the North Carolina Constitution provides the right to a sound, basic education.[32] The plaintiff alleged that her children were denied this right because of the school's deliberate indifference to abuse that resulted in "an environment in which plaintiff-students could not learn."[33] Unlike recent cases the court considered, where questions arose concerning what level of scrutiny should be applied, the *Deminski* court justifiably did not consider this issue.[34] The court appears to have agreed with the plaintiff's forceful and compelling argument that "[t]here can never be 'an important or significant reason,' or even a rational basis, for a school to knowingly tolerate the sexual, emotional, or physical abuse of a student entrusted to its care."[35] "Put another way, to allow a school to deny educational access by tolerating abuse is always unreasonable."[36]

Finally, the court confirmed that to progress a claim under the North Carolina Constitution, there cannot be a state remedy.[37] The court acknowledged that no adequate state remedy is available where the type of remedy sought is not available under North Carolina state law.[38] A lack of a state remedy was necessary for the plaintiff to bypass the sovereign immunity of the defendant school board, a governmental actor.[39]

## II. THE RIGHT TO A SOUND BASIC EDUCATION IN NORTH CAROLINA

*Deminski*, and its expansion of the scope of the fundamental right to education established in *Leandro*, is not as revolutionary as *Leandro* itself. In *Leandro*, the court held that there is a basic right to education under the North

31. *Id.* ¶ 17 (quoting *Claim*, BLACK'S LAW DICTIONARY (11th ed. 2019)).

32. Leandro v. State, 346 N.C. 336, 347, 488 S.E.2d 249, 255 (1997).

33. *Deminski*, 2021-NCSC-58, ¶ 20.

34. The Supreme Court of North Carolina considered the "interplay" between due process and the constitutional rights arising from the court's ruling in the *Leandro* cases. Plaintiffs-Appellants' New Brief, *supra* note 4, at 18 (citing King *ex rel.* Harvey-Barrow v. Beaufort Cnty. Bd. of Educ., 364 N.C. 368, 704 S.E.2d 259 (2010)). As the plaintiffs noted in their brief, this discussion resulted in numerous opinions where the level of scrutiny to be applied to school discipline cases predicated on *Leandro* was a critical issue. *Id.* at 19 (citing *King*, 364 N.C. 377–78, 704 S.E.2d at 265 (Martin, J., for the majority) (requiring intermediate scrutiny); *King*, 364 N.C. at 379–80, 704 S.E.2d at 266 (Timmons-Goodson, J., with Hudson, J., concurring in part and dissenting in part) (seeking strict scrutiny); *King*, 364 N.C. at 392–93, 704 S.E.2d at 274 (Newby, J., dissenting) (seeking rational-basis review)).

35. Plaintiffs-Appellants' New Brief, *supra* note 4, at 19 (citing *King*, 364 N.C. at 377, 704 S.E.2d at 265).

36. *Id.* (citing *King*, 364 N.C. at 378, 704 S.E.2d at 265).

37. *Deminski*, 2021-NCSC-58, ¶ 18 (citing Corum v. Univ. of N.C. *ex rel.* Bd. of Governors, 330 N.C. 761, 782, 413 S.E.2d 276, 289 (1992)).

38. *Id.* (citing Craig *ex rel.* Craig v. New Hanover Cnty. Bd. of Educ., 363 N.C. 334, 340, 678 S.E.2d 351, 356 (2009)) (discussing how an alternative remedy is not adequate if barred by immunity).

39. *See infra* Section II.C.

Carolina Constitution.[40] This was consistent with a movement among other states, which had also found that their state constitutions, unlike the federal constitution, provided a right to education.[41] In finding this right in the North Carolina Constitution, the *Leandro* court considered the "educational goals and standards adopted by the legislature" and "whether any of the state's children are being denied their right to a sound basic education."[42] The court concluded that "[a]n education that does not serve the purpose of preparing students to participate and compete in the society in which they live and work is devoid of substance and is constitutionally inadequate."[43]

*Deminski* is an extension of *Leandro* and its progeny.[44] In *Hoke County Board of Education v. State* (*Leandro II*),[45] the Supreme Court of North Carolina found that students were denied a sound, basic education because the State "failed to identify the inordinate number of 'at-risk' students and provide a means for such students to avail themselves of the opportunity for a sound basic education" and "failed to oversee how educational funding and resources were being used and implemented in Hoke County Schools."[46] Similarly, in *Silver v. Halifax County Board of Commissioners*,[47] the Supreme Court of North Carolina noted that Halifax County school buildings and facilities were "woefully inadequate, with crumbling infrastructure"—suggesting that this may factor into whether the defendants violated the plaintiff's constitutional right to access a sound, basic education.[48] *Leandro II* and *Silver* both involved student *access* to a sound, basic education as defined in *Leandro*,[49] and they identified circumstances under which the State had failed to "guard and maintain that right."[50] The Supreme Court of North Carolina had not singled out an

40. Leandro v. State, 346 N.C. 336, 355, 488 S.E.2d 246, 259 (1997).

41. Derek W. Black, *Unlocking the Power of State Constitutions with Equal Protection: The First Step Toward Education as a Federally Protected Right*, 51 WM. & MARY L. REV. 1343, 1361 (2010) (discussing successful litigation in California, New Jersey, Arkansas, Connecticut, Washington, and Wyoming and how a wave of litigation "beg[an] to broaden the concept of equity to include a substantive component requiring states to offer all students a meaningful education").

42. *Leandro*, 346 N.C. at 355, 488 S.E.2d at 259.

43. *Id.* at 345, 488 S.E.2d at 254.

44. Will Robertson & Virginia Riel, Note, *Right To Be Educated or Right To Choose? School Choice and Its Impact on Education in North Carolina*, 105 VA. L. REV. 1079, 1091–94 (2019) (discussing the lineage of decisions that followed *Leandro*).

45. 358 N.C. 605, 599 S.E.2d 365 (2004).

46. *Id.* at 637, 599 S.E.2d 365, 390.

47. 371 N.C. 855, 821 S.E.2d 755 (2018).

48. *Id.* at 859, 869, 821 S.E.2d at 758, 764 (dismissing on other grounds but suggesting that the harms alleged are the kind *Leandro* was designed to protect).

49. Leandro v. State, 346 N.C. 336, 345, 488 S.E.2d 249, 254 (1997) ("The right to a free public education is explicitly guaranteed by the North Carolina Constitution . . . . [T]he right to education provided in the state constitution is a right to a sound basic education. An education that does not serve the purpose of preparing students to participate and compete in the society . . . is constitutionally inadequate.").

50. N.C. CONST. art. I, § 15.

individual student to evaluate whether the student's individual constitutional right was infringed—rather, the court focused on the collective student body, as evidenced by the consideration of "outputs" and "inputs" as a whole.[51]

### A. *Where the* Deminski *Court Breaks New Ground*

For the first time under the right established in *Leandro*, the *Deminski* court found that the school's deliberate indifference to ongoing student harassment denied the plaintiff students their right to an education.[52] Previously, to evaluate whether there was a "clear evidentiary showing" that a school violated students' right to education in North Carolina, the court considered "outputs" such as comparative standardized test scores and student graduation rates.[53] Likewise, deficiencies pertaining to educational offerings and the administration of schools were recognized as "inputs."[54] *Deminski* is unique because, unlike *Leandro* and its progeny, which considered communal education "inputs" and "outputs," the court looked to the disruptive effect of harassment on *individual students*.[55]

Although the court drew on the same section of the North Carolina Constitution in the preceding cases, the *Deminski* court went a step further when it observed that the right to a sound, basic education "rings hollow" in an environment where students are intimidated or threatened.[56] There are two significant implications of the court's articulation of the right to a sound, basic education. First, the court's interpretation of what constitutes a deprivation of the right is left to the imagination of all future plaintiffs. Second, the court created an additional avenue for plaintiffs to circumvent established public policy mechanisms, like immunity for school boards.

### B. *An Open Door for Broad Interpretation of Constitutional Violations*

Although whether the courts will face "boundless litigation" for "educational malpractice"[57] is still unknown, the *Deminski* court likely overstepped the province of the legislature and educational institutions in

51. *See Leandro*, 346 N.C. at 355–57, 488 S.E.2d at 259–60; *see infra* Section II.A.

52. *See* Deminski v. State Bd. of Educ., 377 N.C. 406, 414, 2021-NCSC-58, ¶ 20.

53. Hoke Cnty Bd. of Educ. v. State (*Leandro II*), 358 N.C. 605, 623, 599 S.E.2d 365, 381 (2004) (characterizing evidentiary categories in accordance with the decision in *Leandro* as "output" evidentiary categories like (1) comparative standardized test score data and (2) student graduation rates or post-secondary education success, and "inputs" like (3) deficiencies pertaining to educational offerings and (4) the deficiency of educational administration).

54. *Id.*

55. *Id.*

56. *Deminski*, 2021-NCSC-58, ¶ 20.

57. Brief for N.C. Sch. Bds. Ass'n Supporting Defendant-Appellee at 11, 12, Deminski v. State Bd. of Educ., 269 N.C. App. 165, 837 S.E.2d 611 (2020), *rev'd in part*, 377 N.C. 406, 2021-NCSC-58 (2021) (No. 18-988).

holding that deliberate indifference to student-on-student abuse can violate a child's right to a sound, basic education.[58] Still, the *Deminski* court clearly did North Carolina courts no favor by failing to thoroughly explain what qualifies as a constitutional deprivation of the right to education.

There is a linear progression of the expansion of the right to a sound, basic education in North Carolina, from a right to attend adequately funded schools,[59] educational programs and opportunities, and overall quality of administrators and teachers,[60] to protection from harassment in the classroom.[61] However, until *Deminski*, prospective plaintiffs proved violation of their right to a basic, sound education by pointing to data, "outputs" and "inputs,"[62] that were analogous to unsuitable building conditions.[63] Proving violations of the right to education through harassment is different, and the level of harassment necessary to warrant a finding that a constitutional right has been violated is generally unknown. Therefore, plaintiffs cannot know the merit of their potential claims. Does the abuse have to be as grotesque and disturbing as the abuse that the Deminski children faced?[64] Or perhaps any activity that violates Title IX or other discrimination accountability mechanisms would rise to the level of a constitutional violation.[65] It is unclear what the full implications of *Deminski*'s lack of specificity may be. The court does not include its own summary of the deliberate indifference standard, leaving future courts to look to the defendant-friendly federal standard.[66] The vagueness of this new constitutional right might

58. Parties opposed to extending constitutional protections to Deminski's claims contend that the decision will "require courts to become effectively, educational 'experts,' determining for each student what amounted to a constitutionally appropriate education based on the day-to-day" variables that must be entrusted to educators. *Id.*

59. Leandro v. State, 346 N.C. 336, 347, 488 S.E.2d 249, 255 (1997).

60. Silver v. Halifax Cnty. Bd. of Comm'rs, 371 N.C. 855, 858 n.4, 821 S.E.2d 755, 758 n.4 (2018).

61. Indeed, North Carolina courts have progressively expanded the meaning of Article I, Section 15 of the North Carolina Constitution, and the "affirmative dut[ies]" within. *See, e.g.*, North Carolina State Bd. of Educ. v. State, 255 N.C. App. 514, 519, 805 S.E.2d 518, 521 (2017), *aff'd*, 371 N.C. 149, 814 S.E.2d 54 (2018) (citing JOHN V. ORTH, THE NORTH CAROLINA STATE CONSTITUTION 52 (1st ed. 1993)); *see also Deminski*, 2021-NCSC-58, ¶ 13 (quoting JOHN V. ORTH & PAUL MARTIN NEWBY, THE NORTH CAROLINA STATE CONSTITUTION 62 (2d ed. 2013)) (discussing how the "privilege of education . . . requires a commitment to social betterment" through educational opportunities).

62. *See Leandro II*, 358 N.C. at 623, 599 S.E.2d at 381.

63. *Silver*, 371 N.C. at 855, 821 S.E.2d at 755.

64. While the court is silent as to the level of abuse that might trigger a claim under *Deminski*, Plaintiff clarified that "not every bullying incident will satisfy the standard." Plaintiffs-Appellants' New Brief, *supra* note 4, at 27 (citing Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 651–52 (1999)).

65. Already, plaintiffs have alleged that a defendant violated their constitutional right where a board of education "knowingly risks the health of its students" by discarding a mandatory mask policy during the COVID-19 pandemic. Complaint at 2, A.B. & C.D. *ex rel.* Jane Doe 1 v. Lincoln Cnty. Bd. of Educ., 21-CVS-01253 (N.C. Super. Ct. 2021).

66. MacKinnon, *supra* note 13, at 2041.

inadvertently "open schools up to such extensive legal and financial exposure" as to overburden an already-strained educational system.[67]

Additionally, the court did not give guidance as to what role—if any—school board policies play in protecting a school board from liability. The Deminski children and their experiences serve as a model of the type of academic disruption and abuse the court likely hopes to address. Yet much of what the plaintiffs faced within the classroom could already be addressed under the established Pitt County Board of Education Policy Manual and its prohibition against discrimination, harassment, and bullying.[68] The policy manual defines discrimination and harassment in a way nested with federal schemes of enforcement,[69] sets standards of reporting and investigating complaints,[70] and even identifies the entities responsible for coordinating the response to complaints.[71] The *Deminski* court does not explain why Pitt County's current reporting and intervention policies are inadequate and inconsistent with the robust state and federal schemes regulating and seeking to prevent the abuse the plaintiffs suffered.[72] If the court thought that the current system to provide students recourse when facing student-on-student abuse had failed, it did not say so. By neither providing a clear standard for what constitutes a constitutional violation under the right to a sound, basic education nor discussing the current reporting mechanisms in place, the court missed an opportunity to offer school boards concrete guidance—something that would likely serve as protection against potential violations of the right.

### C. *A* Deminski *Claim Bypasses Immunity*

The court in *Corum v. University of North Carolina* established that a plaintiff can bring direct causes of action against a state actor when the actor has violated someone's constitutional rights, but a more expansive reading of a right logically creates more opportunity for someone to violate that right.[73] The trade-off in identifying more expansive rights and, thus, a more robust avenue for plaintiffs to bring individual tort-like claims,[74] is that some state policy interests are negatively impacted. If sovereign immunity did not bar negligence

67. Brief for N.C. Sch. Bd. Ass'n, *supra* note 2, at 11–12.

68. PITT CNTY. BD. OF EDUC., POLICY MANUAL: PROHIBITION AGAINST DISCRIMINATION, HARASSMENT, AND BULLYING 1 (2015), https://www.pitt.k12.nc.us/cms/lib/NC01001178/Centricity/Domain/242/1710-4021-7230.pdf [https://perma.cc/8VCB-WUT9].

69. *Id.* at 2–3.

70. *Id.* at 4–5.

71. *Id.* at 5–6 (clearly identifying the reporting authority and coordinator for Title IX sexual harassment, disability, and other forms of discrimination).

72. *See Title IX Information*, NORTH CAROLINA COALITION AGAINST SEXUAL ASSAULT, https://nccasa.org/our-work/initiatives-projects/title-ix-information/ [https://perma.cc/675D-K2L5].

73. 330 N.C. 761, 782, 413 S.E.2d 276, 289 (1992).

74. *See supra* note 4.

claims against the defendant in *Deminski*, the plaintiff would likely have pled negligence.[75] In this case, *Deminski* operates as a work around of immunity.

In North Carolina, as in most other jurisdictions, the state is typically immune from suit absent a waiver of immunity under the doctrine of sovereign or governmental immunity.[76] Indeed, "[i]t is an established principle of jurisprudence, resting on grounds of sound public policy, that a state may not be sued in its own courts or elsewhere unless by statute it has consented to be sued or has otherwise waived its immunity from suit."[77] One exception, under *Corum*, is that a government actor is not immune to claims of constitutional violations, as long as there is no state remedy.[78] *Deminski*, like *Corum*, does not "expand the role of the Court in remedying violations of constitutional rights," rather, the *Deminski* court simply provided further "interpretation of express provisions within the text of the constitution."[79]

The Supreme Court of North Carolina realigned the lower court's findings in *Deminski* with other recent precedent. On a very similar set of facts in *Craig v. New Hanover Board of Education*,[80] the court held that "sovereign immunity cannot" bar constitutional claims.[81] The plaintiff in *Deminski*, as well as those in *Craig*, faced a wicked problem—how to hold a government agent responsible for seemingly negligently enabling an unacceptable learning environment when that government entity is shielded against common law negligence claims by immunity. While one could speculate how recognizing more expansive rights might burden the courts with additional litigation, the Supreme Court of North Carolina has justifiably recognized that bypassing immunity, by expanding a constitutional right, may be the only way to make some plaintiffs whole.[82] Notwithstanding this, additional litigation for school boards does come at a cost.

75. Deminksi understood that theories of recovery under the common law were barred by sovereign immunity. After *Corum* and *Craig*, Deminski could only seek recourse by pleading a direct violation of the state constitution. Plaintiffs-Appellants' New Brief, *supra* note 4, at 9–10.

76. Wray v. City of Greensboro, 370 N.C. 41, 47, 802 S.E.2d 894, 898 (2017); Meyer v. Walls, 347 N.C. 97, 104, 489 S.E.2d 880, 884 (1997).

77. Beroth Oil Co. v. N.C. Dep't of Transp., 256 N.C. App. 401, 413, 808 S.E.2d 488, 498 (2017) (quoting Smith v. Hefner, 235 N.C. 1, 6, 68 S.E.2d 783, 787 (1952)).

78. *Corum*, 330 N.C. at 785–86, 413 S.E.2d at 291–92 (noting that it would be "a fanciful gesture to say on the one hand that citizens have constitutional individual civil rights that are protected from encroachment actions by the State, while on the other hand saying that individuals whose constitutional rights have been violated by the State cannot sue because of the doctrine of sovereign immunity").

79. Harper v. Hall, 380 N.C. 302, 2022-NCSC-17, ¶ 280 n.10 (Newby, J., dissenting) (discussing Bayard v. Singleton, 1 N.C. 5 (1 Mart. 48) (Super. Ct. L. & Eq. 1787)).

80. 363 N.C. 334, 678 S.E.2d 351 (2009).

81. *Id.* at 339, 678 S.E.2d at 355.

82. The stakes are high in all cases extending from *Leandro*, and *Deminski* is no different—protecting our children is the goal, and it may come at the direct cost of bringing litigation against school-related government agents. Brief for N.C. Advocs. for Just. as Amici Curiae Supporting Respondents at 20, Deminski v. State Bd. of Educ., 377 N.C. 406, 2021-NCSC-58 (No. 60A20) ("An unsafe learning environment compromises a student's ability to learn, no matter the quality of the academic opportunity being offered. Controlling and persuasive authority and educational research . . .

*Deminski* and immunity interact in a way that may divert funding from education to litigation. Governmental immunity protects subdivisions of the State, including agencies performing government functions.[83] A school board, as a government agent, may incur liability, and has typically waived governmental immunity, if it procures liability insurance.[84] Now, if a school board faces potential liability under a *Deminski* claim, there may be newfound pressure to secure additional liability insurance.[85] This financial pressure may lead to the State underfunding other efforts—like efforts to satisfy the "inputs" established in *Leandro*[86]—such that school boards may fail to meet their responsibility to provide access to a sound, basic education.[87] The North Carolina School Boards Association has expressed concern that "subjecting school boards to individual claims" would be "ruinous."[88] They argue that inability to raise appropriate funds combined with budget restrictions make it untenable for boards to litigate open-ended *Deminski* claims.[89]

demonstrate this fundamental principle. As the protectors of the People's individual constitutional rights, it is the duty of the courts to determine constitutional claims after providing meaningful opportunity to demonstrate those rights have been denied—here access to a sound basic education—and to require school boards to defend against such in the ordinary course of litigation in whatever manner allowed in view of the facts and claims alleged. To do otherwise would elevate a court-created affirmative defense over a fundamental right, contrary to *Corum*, *Leandro*, and *Craig*.").

83. T & A Amusements, LLC v. McCrory, 251 N.C. App. 904, 908, 796 S.E.2d 376, 379 (2017).

84. N.C. GEN. STAT. § 115C-42 (2022). Sovereign immunity protects the state from most lawsuits unless there is consent to be sued, whereas governmental immunity is the branch of sovereign immunity that protects local governments. *Id.*

85. While governmental immunity in North Carolina does not protect a school board from claims arising under contract law, *see* State v. Smith, 289 N.C. 303, 320, 222 S.E.2d 412, 424 (1976), or claims arising under federal law, *see* Monell v. N.Y. City Dep't of Soc. Servs., 436 U.S. 658, 690 (1978) (discussing § 1983 claims), government agents waive immunity when they purchase liability insurance in accordance with N.C. Gen. Stat. § 115C-42. Conceivably, school boards may choose to purchase liability insurance to account for a thrust of constitutional claims, even if only to limit the amount of recovery to what is allowed under the statute.

86. Leandro v. State, 346 N.C. 336, 355–57, 488 S.E.2d 249, 259–60 (1997).

87. This is generally the view that the defendant asked the court to adopt—that by continuing to create avenues for additional litigation, boards would be overwhelmed with litigation and would be unable to complete their necessary functions. Brief for N.C. Sch. Bds. Ass'n, *supra* note 2, at 12–13, *Deminski*, 2021-NCSC-58 (No. 60A20) ("Redirecting these limited dollars to pay for the grievances of individual students who disagree with the decisions of educators would leave fewer resources for school boards to carry out the constitutional mandate to provide a sound, basic education to all of North Carolina's children.").

88. *Id.*

89. *Id.*

## III. DELIBERATE INDIFFERENCE

### A. *Plaintiffs Must Look to Title IX and Eighth Amendment Claims for Guidance*

Establishing that a government entity was deliberately indifferent is difficult[90] and may not afford students a clear path to establishing the liability of educational institutions. Deminski proposed that the court adopt the deliberate indifference standard used in Title IX cases "because it's a clear standard that's already used in several other jurisdictions, and so it was one that the court was already familiar with and would feel comfortable that it could trust."[91] However, within the Title IX scheme, critics of the deliberate indifference standard have emphasized that it is "not notable for transparency or consistency."[92] At first, establishing liability under Title IX appears straightforward, only requiring a demonstration that a school or board was deliberately indifferent through: (1) knowledge; and (2) the school's actions in response.[93] But the U.S. Supreme Court developed the deliberate indifference standard[94] specifically to counter the hazard posed to health professionals against personal liability for judgments under 42 U.S.C. § 1983 and to provide a "significantly higher burden of proof than ordinary medical negligence."[95]

In *Estelle v. Gamble*,[96] the U.S. Supreme Court used the deliberate indifference standard to evaluate when a prisoner was subjected to cruel and unusual punishment under the U.S. Constitution.[97] There, the Court held that a prisoner does not avail themselves of a deliberate indifference claim under 42 U.S.C. § 1983 every time a prisoner does not receive adequate medical care.[98]

90. Brad Taylor, *Professional Judgment or Deliberate Indifference? Suicide Under the Eighth Amendment*, U. ILL. L. REV. ONLINE 60, 62–63 (2020) (discussing the complexity in determining whether a medical provider was deliberately indifferent to the suicidality of a person who was incarcerated and whether the provider was acting within the confounds of his profession).

91. David Donovan, *Parent Can Sue School District Over Failure To Respond to Bullying*, N.C. LAWYERS WKLY. (June 17, 2021), https://foxrothschild.gjassets.com/content/uploads/2021/06/Parent_can_sue_school_district_over_failure_to_respond_to_bullying.pdf [https://perma.cc/LK94-CHQX].

92. MacKinnon, *supra* note 13, at 2069.

93. *Id.* at 2067.

94. *See generally* Estelle v. Gamble, 429 U.S. 97 (1976) (holding that where a prisoner had been seen and treated on seventeen occasions by medical providers, he had an insufficient basis to state a cause of action against his physician).

95. Meaghan A. Sweeney, *Reasonable Response: The Achilles' Heel of the Seventh Circuit's "Deliberate Indifference" Analysis*, 12 SEVENTH CIR. REV. 62, 67 (May 1, 2016), http://www.kentlaw.iit.edu/Documents/AcademicPrograms/7CR/v12-1/sweeney.pdf [https://perma.cc/U747-SAPP].

96. 429 U.S. 97 (1976).

97. *Id.* at 104 ("We therefore conclude that deliberate indifference to serious medical needs of prisoners constitutes the 'unnecessary and wanton infliction of pain,' . . . proscribed by the Eighth Amendment.").

98. *Id.* at 105–06.

For example, where a physician has negligently diagnosed or treated a medical condition, there is not a "valid claim of medical mistreatment under the Eighth Amendment."[99] The Supreme Court developed the deliberate indifference standard to (1) limit medical provider liability to cases where their conduct was most egregious and (2) avoid disincentivizing health care providers from engaging with the criminal justice system.[100]

The calculated results[101] of the Supreme Court's development of "deliberate indifference" are clear where the deliberate indifference standard has been adopted within the context of student sexual harassment, both teacher-on-student sexual harassment[102] and student-on-student sexual harassment.[103] The chances of plaintiffs succeeding in establishing that an educational institution was deliberately indifferent are narrow within the Title IX context because they must overcome a significant burden to establish that an educational institution was deliberately indifferent to their sexual harassment.[104] From 1998 to 2014, federal courts dismissed 140 federal "deliberate indifference" claims on summary judgment.[105] Courts dismissed an additional thirty-six claims on Rule 12 motions.[106] In contrast, only sixty-eight claims survived summary judgment and thirty-eight survived Rule 12 motions.[107] As the *Deminski* court relied on *Davis*,[108] it is logical to assume that the Supreme Court of North Carolina expects deliberate indifference to operate in a similar fashion. However, the court did not account for the robust federal law that supports Title IX[109] or confirm how deliberate indifference would operate at the state level for individual constitutional claims.

### B. *Why a Deliberate Indifference Standard May Not Move the Needle*

The first potential issue with the deliberate indifference standard occurs within the first requirement—knowledge. A claimant must establish that "an

99. *Id.* at 106.

100. *Cf.* Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274, 275 (1998) (assessing liability for monetary damages in a Title IX case and noting that "it is sensible to assume that Congress did not envision a recipient's liability in damages where the recipient was unaware of the discrimination").

101. The calculated results were to protect entities from overzealous plaintiffs and to create an environment where medical providers would not be paralyzed to act due to an overabundance of civil litigation. *Estelle*, 429 U.S. at 106.

102. *Gebser*, 524 U.S. at 290.

103. Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 633 (1999).

104. MacKinnon, *supra* note 13, at 2040–41 n.5.

105. *Id.*

106. *Id.*

107. *Id.*

108. Deminski v. State Bd. of Educ., 377 N.C. 406, 2021-NCSC-58, ¶ 20.

109. The federal government has devoted extensive resources to supporting activities to combat discrimination on the basis of sex from identifying reporting mechanisms to laying out regulations for investigations. *See, e.g.*, 34 C.F.R. § 106.

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 [harassment]."[110] The *Deminski* court articulates this element of deliberate indifference as a "government entity [knowing] about the circumstances infringing plaintiff-students' constitutional right."[111] What the court fails to do is describe what constitutes *knowledge*. The court concludes, without extensive analysis, that the Pitt County School Board "knew" of the incidents of abuse.[112] What constitutes knowledge, unless the court intended to mirror Title IX complaints exactly, will be explored through needless litigation at the expense of victims of abuse. While knowledge is likely easily established in *Deminski*, as a novel application of deliberate indifference in this newly expanded constitutional right, the court could have established guideposts for future litigation. Would an email to the school board constitute a report or give the board actual knowledge? Perhaps the claimant directly informing the principal of the school through an informal meeting, presumably like in *Deminski*, is sufficient.[113] One only needs to review the boundless Title IX claims that have failed because the plaintiffs did not sufficiently establish actual knowledge to realize that *Deminksi*'s lack of clear guidance creates issues for North Carolina plaintiffs.[114]

Pragmatically, this requirement also creates a situation where individuals might suffer abuse for an extensive period before an institution has actual knowledge. This is especially true considering the plaintiffs involved: children.[115] In *Deminski*, for example, it is clear that the children informed their teacher of their ongoing abuse.[116] The children also informed their mother, who subsequently informed the teacher, the assistant principal, and principal—but at what point did the institution have the requisite knowledge to satisfy

110. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274, 290 (1998).

111. *Deminski*, 2021-NCSC-58, ¶ 20.

112. *Id.* ¶ 4.

113. *See generally*, 34 C.F.R. § 106.45 (establishing the grievance process for formal sexual harassment complaints).

114. *See supra* notes 102–03 and accompanying text.

115. It is well established that children often struggle to report sexual abuse. That a child reports, or parents recognize, that a child has been abused or harassed in school is rare. By requiring a high standard of "notice," the court potentially further disincentivizes children from coming forward, whether they face abuse from their teachers or from other students, as in the instant case. *See, e.g.*, *A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, CHILDUSA (Mar. 2020), https://childusa.org/wp-content/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf [https://perma.cc/26AB-UCNJ]. Lack of victim reporting is the reason that North Carolina signed into law An Act To Protect Children from Sexual Abuse and To Strengthen and Modernize Sexual Assault Laws. *Gov. Cooper Signs Bill To Protect Children and Close Consent Loophole*, N.C. GOVERNOR (Nov. 7, 2019), https://governor.nc.gov/news/gov-cooper-signs-bill-protect-children-and-close-consent-loophole [https://perma.cc/8B4Z-YGCY]; *see* Senate Bill 199, 2019 N.C. Sess. Laws 245 (codified in scattered sections of Articles 7B, 25A, 27A, and 39 of N.C. GEN. STAT.).

116. *Deminski*, 2021-NCSC-58, ¶ 4.

deliberate indifference?[117] After approximately two months of abuse, Deminski had to remove her children from the school where they were suffering. Arguably, this was due to the school and school board's lack of action.[118]

The second issue with deliberate indifference as a standard is that the *Deminski* court provides no guidance as to what constitutes "actual notice." A Title IX complaint, for example, requires "actual notice" as the first step towards establishing deliberate indifference.[119] For schools, notice to a Title IX Coordinator, or in the alternative, an official "with authority to institute corrective measures on the recipient's behalf, charges a school with *actual knowledge*."[120] *Deminski* fails to clarify whether plaintiffs must report to a specific person, like the teacher of the class, or by filing a formal complaint. The ambiguity for plaintiffs is unfortunate. Will the *Deminski* standard require more than identifying a specific student and perpetrator—perhaps specific behavior?[121]

Finally, a plaintiff must show that the government entity "failed to take adequate action to address" the "circumstances infringing plaintiff-students' constitutional right."[122] The Supreme Court of North Carolina summarizes this nuanced element to, yet again, make it appear that there is a clear path to establishing liability.[123] However, at least under Title IX, establishing deliberate indifference requires that the lack of response or response "'cause[d] [the students] to undergo' harassment or 'make them liable or vulnerable' to it."[124] Under the Title IX lens, not only must the Pitt County Board of Education have had actual knowledge, their indifference must have actually caused the harassment of the Deminski children. For example, when a school removes the victim from the offender's classroom upon notice of harassment, the Fourth Circuit has found no deliberate indifference occurred.[125]

117. *Id.*

118. *Id.*

119. Gebser v. Lago Vista Indep. Sch. Dist., 524 U.S. 274, 288 (1998).

120. OFF. FOR C.R., U.S. DEPT. OF ED., SUMMARY OF MAJOR PROVISIONS OF THE DEPARTMENT OF EDUCATION'S TITLE IX FINAL RULE 1, https://www2.ed.gov/about/offices/list/ocr/docs/titleix-summary.pdf [https://perma.cc/7256-3Y24] (emphasis added).

121. MacKinnon, *supra* note 13, at 2070 (considering a case where the court found there was no actual knowledge when a student complained of an "improper relationship" only later to find that the student had been sexually molested for two years).

122. *Deminski*, 2021-NCSC-58, ¶ 20.

123. *Id.* (introducing, briefly, the basic language of the "action" element without any substance or guidance for lower courts).

124. Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 645 (1999).

125. MacKinnon, *supra* note 13, at 2070 (citing Littleton v. Bd. of Educ. of Cnty. of Ohio, 172 F.3d 43 (4th Cir. 1999)); *see also* Doe v. Bd. of Educ. of Prince George's Cnty., 605 Fed. App'x 159, 170 (4th Cir. 2015) (finding no deliberate indifference after a perpetrator was removed from the classroom, suspended, and the victim given an escort to the bathroom, only to be allowed to later return to the classroom).

While the court does not explain why deliberate indifference is the appropriate standard of liability, other than simply adopting the plaintiff's claim as is, the court must have considered the potential impact on institutions—there was already a clear, more plaintiff-friendly standard of liability, established in *Leandro II*. The *Deminski* court deviates from the decision in *Leandro* by suggesting the trial court must find that the defendant was deliberately indifferent.[126] Unlike in *Deminski*, the court in *Leandro* concluded that where a defendant is "denying children of the state a sound basic education, a denial of a fundamental right will have been established."[127] By requiring deliberate indifference, the *Deminski* court also departs from the holding in *Leandro II*, which described the elements of liability when the State violates a fundamental right.[128] There, the standard for liability was a "clear showing of harm to those within the zone of protection afforded by the constitutional provision."[129] Additionally, the response to actual knowledge of sexual harassment must be "unreasonable in light of the known circumstances,"[130] an additional step that the claimants in *Leandro II* and *Silver* did not have to prove to establish liability. The "[o]verlaying [of] a requirement of deliberate indifference would be a retreat from *Leandro* and *Leandro II*, and would render the rights at issue illusory in many cases."[131] Indeed, "[s]chool boards do not have to exhibit subjective intent or deliberate indifference for bullying by peers or abuse by staff to have a devastating effect on a child's access to a sound basic education."[132] Whether a state entity is held responsible for a violation of someone's fundamental right "should not turn on a state actor's intent."[133]

Ultimately, the Supreme Court of North Carolina missed an opportunity to thread a new standard that falls between deliberate indifference and "mere negligence."[134] Another (lesser) standard the court could have adopted was gross

126. *See Deminski*, 2021-NCSC-58, ¶ 20 (holding that the plaintiff stated a colorable claim that the defendant violated a constitutional right when the plaintiff alleged that the defendant was deliberately indifferent).

127. Leandro v. State, 346 N.C. 336, 357, 488 S.E.2d 249, 261 (1997).

128. 358 N.C. 605, 615, 599 S.E.2d 365, 377 (2004).

129. *Id.*

130. Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 648 (1999).

131. Brief for Disability Rts. N.C., *supra* note 15, at 4 (describing the phenomena where children suffer whether or not a school board is deliberately indifferent).

132. *Id.* at 5.

133. Will A. Smith, *Civil Liability for Sexual Assault in Prison: A Challenge to the Deliberate Indifference Standard*, 34 CUMB. L. REV. 289, 315 (2004) (asserting that the Supreme Court interpreted the Eighth Amendment to protect prison officials more than inmates in *Farmer v. Brennan*, 511 U.S. 825, 856–57 (1994)).

134. *See* Shevon L. Scarafile, *"Deliberate Indifference" or Not: That Is the Question in the Third Circuit Jail Suicide Case of* Woloszyn v. Lawrence County, 51 VILL. L. REV. 1133, 1139–41, 1153 (2006) (referencing U.S. Supreme Court cases that held that negligence was an inadequate standard regarding Fourteenth Amendment Due Process violations like *Estelle*).

negligence, as some deliberate-indifference critics have suggested.[135] Requiring a showing of gross negligence or "willful, wanton, or reckless misconduct"[136] of a defendant school board would be a welcome departure from establishing actual knowledge or notice, for example.

Alternatively, requiring that a distant school board—without exacting control over the classroom—must demonstrate deliberate indifference to have violated a student's rights may be a balanced measure. The same difficult burden, which at times prevents a claimant recovering under Title IX for sexual harassment, is the same standard that avoids punishing an institution that does not have "substantial control over both the harasser and the context in which the known harassment occurs."[137] However, like in *Davis*, the Pitt County School Board "has disciplinary authority over its students"[138] and thus likely exemplifies the necessary control.

## CONCLUSION

While on its face the decision in *Deminski* appears to be a win for students who suffer student-on-student harassment, the results of future litigation are likely to be as disappointing for plaintiffs pursuing constitutional claims as they have been for plaintiffs seeking recourse under Title IX for sexual harassment. If institutions can escape liability by showing they took the minimally required actions under the deliberate indifference standard, the question remains—what has the court really accomplished in *Deminski*?

It is also entirely possible that because the court simply adopted the claim of the plaintiff in *Deminski*, rather than explicitly holding that it is the appropriate standard, that deliberate indifference is simply one example of how an institution of education might violate a student's right to a sound, basic education. As it stands, and until a future court answers this question, there is no way to know. This interpretation does little to solve the issue of vagueness previously discussed. The *Deminski* court articulated an expansion of a constitutional right with no guidance as to the scope of potential ways the right is violated and, thus, has chartered a path to limitless litigation.

135. *See* Christopher B. Aupperle, Comment, *Gross Negligence: An Alternative to the Deliberate Indifference Standard*, 25 CREIGHTON L. REV. 911, 922–24 (1992) (arguing in the wake of *Estelle v. Gamble* that gross negligence might be an appropriate standard because deliberate indifference is almost impossible to establish in typical 1983 claims).

136. *Id.* at 922; *Gross Negligence*, BLACK'S LAW DICTIONARY (11th ed. 2019) (defining gross negligence as "a lack of even slight diligence or care" and noting that "[s]everal courts . . . have construed gross negligence as requiring willful, wanton, or reckless misconduct").

137. Davis *ex rel.* LaShonda D. v. Monroe Cnty. Bd. of Educ., 526 U.S. 629, 630 (1999).

138. *Id.*

RALPH WILLIAM MEEKINS, JR.**

** I am beyond grateful for the continued support of my loving wife, Lyndsey, and our three—soon to be four—beautiful children. Thank you to my fellow board members who have worked on this Recent Development, especially my primary editor, Kate Giduz. I am excited to join my grandfather and great-great-grandfather who also wrote for the North Carolina Law Review and look forward to practicing law in this great state alongside my parents, Ralph and Loann Meekins. God is good!