

## Supreme Court to hear key child health cases

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The U.S. Supreme Court has a full agenda this spring, including several cases with child health implications. Key decisions are expected near the end of the session in late June.

Judicial advocacy plays a critical part in how the Academy speaks up for children at the federal level. If a rule finalized through the regulatory process or a new law is challenged in the courts, weighing in with the judicial branch offers another option for advocacy — whether that means supporting or opposing a policy.

The Academy has weighed in and is following numerous cases at the Supreme Court level as well as in lower courts across the country on issues ranging from immigrant child health to tobacco to environmental health.

Following is a look at a few of the cases before the Supreme Court that the AAP is tracking.

### **Department of Homeland Security v. Regents of the University of California**

This case considers whether the Trump administration can end the Deferred Action for Childhood Arrivals (DACA) program by declaring it unlawful. The program, which was created in 2012 under the Obama administration, granted temporary protection from deportation for about 800,000 immigrants who were brought to the United States as children. Many of these children are now adults and have children of their own.

The Academy led an amicus (“friend of the court”) brief with other child advocacy organizations. Amicus briefs provide an opportunity for outside parties to offer information or expertise on the issues being discussed in the case. The brief outlined how rescinding the program would impact the children of DACA recipients, exacerbating the fear and anxiety that immigrant families face and its long-lasting consequences for children's health.

The Supreme Court heard oral arguments in November, which is when the justices can ask questions and the attorneys for both parties can outline their main arguments. A decision is expected by June.

### **June Medical Services LLC v. Gee**

The main issue is whether a Louisiana requirement that abortion providers have admitting privileges at nearby hospitals constitutes an undue burden on the right to abortion. The Supreme Court will hear oral arguments on March 4.

The AAP joined an amicus brief with women's health and medical organizations, outlining how the requirement is medically unnecessary and limits access to care for patients.

"Laws regulating abortion should be evidence-based and supported by a valid medical justification," the groups stated in the brief. "Because laws requiring clinicians who provide abortions to have local admitting privileges are neither, this Court should not allow them to stand, regardless of the state from which they originate."

The Supreme Court found a similar provision of a Texas law unconstitutional in 2016. The 5-3 ruling in *Whole Woman's Health v. Hellerstedt* held that the admitting privileges requirement posed an undue burden on access to abortion. Since then, the court's composition has changed, and the current panel of judges will determine the fate of the Louisiana restrictions.

### **Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania**

This case centers on a religious exemption to an Affordable Care Act (ACA) requirement that employers provide contraceptive coverage with no cost-sharing to employees through employer-sponsored health plans. A 2017 Trump administration rule dramatically expanded the ability of employers to opt out of this requirement for religious or moral reasons and therefore threatens access to contraception for women.

This issue has been posed to the Supreme Court twice. In 2014, the court ruled to allow closely held for-profit companies with religious objections to opt out of offering contraceptives to their employees and their families. In 2016, the court examined an Obama-era accommodation for certain religious organizations that would have ensured employees of objecting organizations received seamless access to no-cost contraception through the insurer, but it sent the case back to a lower court and declined to make a final ruling.

Beyond contraceptive coverage, a broad ruling in this case could set a precedent for companies to refuse to pay for other doctor-recommended health services, such as vaccines, due to personal objection.

At press time, no date had been set for oral arguments.

### **More to come (or not)**

The Supreme Court also will be deciding on a case that will determine whether the Civil Rights Act protects LGBT employees from discrimination based on gender identity or sexual orientation.

The court also could take up a case focused on the merits of the Trump administration's public charge rule (see below) as well as a challenge to a Trump administration rule that would pave the way for long-term, possibly indefinite, detention of immigrant children in self-licensed facilities overseen by the Department of Homeland Security.

Sometimes, the cases the Supreme Court declines to hear are as equally important as the cases it plans to take up.

In January, the Supreme Court said it would not fast track consideration of a challenge to the ACA. The main issue is whether the law can stand without the individual mandate, which required most citizens and legal residents to have health insurance. At press time, it was unclear whether the court would consider the case this term. If the Supreme Court does not take up the case, a Texas district court judge will decide which parts of the health law can stand.

The Academy will continue to track each of these cases and insert its expertise and perspective at critical moments throughout the process.

### **What you need to know about public charge**

In January, the Supreme Court allowed the Trump administration's public charge rule to go into effect by lifting nationwide injunctions.

The Department of Homeland Security began implementing the public charge rule on Feb. 24, except in Illinois, which has its own injunction enforceable within the state.

Under the final rule, an immigrant's use of certain programs can be considered to deny entry or permanent legal status in the United States. The government will look at an immigrant's use of the Supplemental Nutrition Assistance Program, housing assistance and Medicaid (for nonpregnant adults).

Importantly, since the Supreme Court did not rule on the legality of the rule, the litigation process continues and the AAP is weighing in at every step.

For resources, visit <https://protectingimmigrantfamilies.org/know-your-rights/>.

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