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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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FITZGERALD ET VIR *v.* BARNSTABLE SCHOOL COMMITTEE ET AL.

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

No. 07–1125. Argued December 2, 2008—Decided January 21, 2009

Petitioners filed suit against respondents, the local school district's governing board and superintendent, alleging that their response to allegations of sexual harassment of petitioners' daughter by an older student was inadequate, raising claims under, *inter alia,* Title IX of the Education Amendments of 1972, 20 U. S. C. §1681(a), and 42 U. S. C. §1983 for violation of the Equal Protection Clause of the Fourteenth Amendment. Among its rulings, the District Court dismissed the §1983 claim. The First Circuit affirmed, holding that, under this Court's precedents, Title IX's implied private remedy was sufficiently comprehensive to preclude the use of §1983 to advance constitutional claims.

Held:

1. Title IX does not preclude a §1983 action alleging unconstitutional gender discrimination in schools. Pp. 4–12.

(a) In *Middlesex County Sewerage Authority* v. *National Sea Clammers Assn.*, 453 U. S. 1; *Smith* v. *Robinson*, 468 U. S. 992; and *Rancho Palos Verdes* v. *Abrams*, 544 U. S. 113, this Court found that particular statutory enactments precluded §1983 claims where it was established that Congress intended the statute's remedial scheme to "be the exclusive avenue through which a plaintiff may assert [such] claims," *Smith, supra,* at 1009. In determining whether Congress intended for a subsequent statute to preclude the enforcement of a federal right under §1983, the Court has placed primary emphasis on the nature and extent of that statute's remedial scheme. See *Sea Clammers,* 453 U. S., at 20. Where the §1983 claim alleges a constitutional violation, a lack of congressional intent to preclude may also be inferred from a comparison of the rights and protections of the

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other statute and those existing under the Constitution. Pp. 4–7.

(b) In the absence of a comprehensive remedial scheme comparable to those at issue in *Sea Clammers*, *Smith*, and *Rancho Palos Verdes*, and in light of the divergent coverage of Title IX and the Equal Protection Clause, it must be concluded that Title IX was not meant to be an exclusive mechanism for addressing gender discrimination in schools, or a substitute for §1983 suits as a means of enforcing constitutional rights. Pp. 7–12.

(i) Title IX's only express enforcement mechanism, 20 U. S. C. §1682, is an administrative procedure resulting in the withdrawal of federal funding from noncompliant institutions. This Court has also recognized an implied private right of action, *Cannon* v. *University of Chicago*, 441 U. S. 677, 717, for which both injunctive relief and damages are available, *Franklin* v. *Gwinnett County Public Schools*, 503 U. S. 60, 76. These remedies stand in stark contrast to the "unusually elaborate," "carefully tailored," and "restrictive" enforcement schemes of the statutes in *Sea Clammers*, *Smith*, and *Rancho Palos Verdes*. Unlike those statutes, Title IX has no administrative exhaustion requirement and no notice provisions. Plaintiffs can file directly in court under its implied private right of action and can obtain the full range of remedies. Accordingly, parallel and concurrent §1983 claims will neither circumvent required procedures nor allow access to new remedies. Moreover, under *Rancho Palos Verdes,* "[t]he provision of an express, private means of redress in the statute itself" is a key consideration in determining congressional intent, and "the existence of a more restrictive private remedy for statutory violations has been the dividing line between those cases in which . . . an action would lie under §1983 and those in which we have held that it would not." 544 U. S., at 121. Title IX contains no express private remedy, much less a more restrictive one. Pp. 7–9.

(ii) Because Title IX's protections are narrower in some respects and broader in others than those guaranteed under the Equal Protection Clause, the Court cannot agree with the First Circuit that Congress saw Title IX as the sole means of correcting unconstitutional gender discrimination in schools. Title IX reaches institutions and programs that receive federal funds, 20 U. S. C. §1681(a), which may include nonpublic institutions, §1681(c), but it has consistently been interpreted as not authorizing suit against school officials, teachers, and other individuals. Moreover, while the constitutional provision reaches only state actors, §1983 equal protection claims may be brought against individuals as well as state entities. *West* v. *Atkins*, 487 U. S. 42, 48–51. And Title IX exempts from its restrictions several activities that may be challenged on constitutional grounds. See, *e.g.,* §1681(a)(5). Even where particular activities and

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particular defendants are subject to both Title IX and the Equal Protection Clause, the standards for establishing liability may not be wholly congruent. Compare *Gebser* v. *Lago Vista Independent School Dist.*, 524 U. S. 274, 290, with *Monell* v. *New York City Dept. of Social Servs.*, 436 U. S. 658, 694. Pp. 9–11.

(iii) The Court's conclusion is consistent with Title IX's context and history. Because the Congress that enacted Title IX authorized the Attorney General to intervene in private suits alleging sex discrimination violative of the Equal Protection Clause, 42 U. S. C. §2000h–2, Congress must have explicitly envisioned that private plaintiffs would bring constitutional claims to challenge gender discrimination via §1983. Moreover, Title IX was modeled after Title VI of the Civil Rights Act of 1964, *Cannon, supra,* at 694–695, and, at the time of Title IX's 1972 enactment, the lower courts routinely interpreted Title VI to allow for parallel and concurrent §1983 claims. Absent contrary evidence, it follows that Congress intended Title IX to be interpreted similarly to allow for parallel and concurrent §1983 claims. Pp. 11–12.

2. As neither of the courts below addressed the merits of petitioners' constitutional claims or even the sufficiency of their pleadings, this Court will not do so in the first instance here. Pp. 12–13.

504 F. 3d 165, reversed and remanded.

ALITO, J., delivered the opinion for a unanimous Court.