

**AUG 26 2002**

**PATRICK FISHER**  
Clerk

**PUBLISH**

**UNITED STATES COURT OF APPEALS**  
**TENTH CIRCUIT**

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LINDSAY EARLS and LACEY EARLS,  
minors, by their next friends and parents, John  
David Earls and Lori Earls; DANIEL JAMES, a  
minor, by his friend and mother, Leta Hagar,

Plaintiffs - Appellants,

v.

BOARD OF EDUCATION OF TECUMSEH  
PUBLIC SCHOOL DISTRICT, Independent  
School District No. 92 of Pottawatomie County;  
TECUMSEH PUBLIC SCHOOL DISTRICT,  
Independent School District No. 92 of  
Pottawatomie County,

Defendants - Appellees.

No. 00-6128

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OKLAHOMA STATE SCHOOL BOARDS  
ASSOCIATION; NATIONAL SCHOOL  
BOARDS ASSOCIATION; WASHINGTON  
LEGAL FOUNDATION; U.S. SENATORS  
JUDD GREGG and DON NICKLES;  
GOVERNOR FRANK KEATING; REP.  
FRED S. MORGAN (Oklahoma); OKLAHOMA  
SECONDARY SCHOOLS ACTIVITIES  
ASSOCIATION; ALLIED EDUCATIONAL  
FOUNDATION; GAYLA D. DUKE; RHONDA  
ELLARD; DEBRA FLETCHER; BOBBETTE  
HAMILTON; JIMMY and SHEILA JORDAN;  
MICHAEL and KIM RAWLS; STEWART and  
ROSEL STABEL; KENNETH A. STANLEY;  
KRIS STEELE; CLYDE L. and GAIL A.

TOPPING; MIKE and VALERIE TUCKER;  
STEVE and LYNNE YOUNG; THE  
AMERICAN PUBLIC HEALTH  
ASSOCIATION; THE NATIONAL  
ASSOCIATION OF SOCIAL WORKERS; THE  
NATIONAL ASSOCIATION OF SOCIAL  
WORKERS – OKLAHOMA CHAPTER; THE  
CENTER FOR LAW AND EDUCATION; THE  
NATIONAL CENTER FOR YOUTH LAW;  
THE JUVENILE LAW CENTER; THE  
LOYOLA CHIDLAW CENTER;  
ADVOCATES FOR CHILDREN OF NEW  
YORK; LAWYERS FOR CHILDREN;  
COVENANT HOUSE NEW JERSEY;  
PROFESSOR MARTIN GUGGENHEIM &  
PROFESSOR RANDY HERTZ; AMERICAN  
ACADEMY OF PEDIATRICS,

Amici Curiae.

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**OPINION ON REMAND FROM THE  
UNITED STATES SUPREME COURT**

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Graham A. Boyd, American Civil Liberties Union Foundation, New Haven, Connecticut, for Plaintiffs-Appellants.

Linda Maria Meoli (William P. Bleakley and Stephanie J. Mather with her on the brief), The Center for Education Law, Inc., Oklahoma City, Oklahoma, for Defendants-Appellees.

Craig R. Levine, New York, New York, filed an amici curiae brief for The American Public Health Association, The National Association of Social Workers, The National Association of Social Workers - Oklahoma Chapter, The Center for Law and Education, The National Center for Youth Law, The Juvenile Law Center, The Loyola ChildLaw Center, Advocates for Children of New York, Lawyers for Children, Covenant House New Jersey, Professor Martin Guggenheim & Professor Randy Hertz, and American Academy of Pediatrics.

Tyson L. Williams and Julie L. Vogt, Oklahoma State School Boards Association, Oklahoma City, Oklahoma; Julie K. Underwood and Edwin C. Darden, National School Boards Association, Alexandria, Virginia, filed an amici curiae brief for The Oklahoma State School Boards Association and The National School Boards Association.

Daniel J. Popeo and R. Shawn Gunnarson, Washington Legal Foundation, Washington, D.C., filed an amici curiae brief for Washington Legal Foundation; U.S. Senators Judd Gregg and Don Nickles; Governor Frank Keating; Rep. Fred S. Morgan (Oklahoma); Oklahoma Secondary Schools Activities Association; Allied Educational Foundation; Gayla D. Duke; Rhonda Ellard; Debra Fletcher; Bobbette Hamilton; Jimmy and Sheila Jordan; Michael and Kim Rawls; Stewart and Roshel Stabel; Kenneth A. Stanley; Kris Steele; Clyde L. and Gail A. Topping; Mike and Valerie Tucker; and Steve and Lynne Young.

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Before **BRORBY** , **ANDERSON** , and **EBEL** , Circuit Judges.

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**PER CURIAM**

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On remand from the United States Supreme Court's opinion in Board of Education of Independent School District No. 92 of Pottawatomie County v. Earls, 122 S.Ct. 2559 (2002), we vacate our prior opinion, order and mandate, and we remand to the district court to grant summary judgment in favor of the Board of Education and the School District.

**REMANDED.**