Thomas More SOCIETY
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Every School District's Present Need for a Parental Rights Policy

GUIDANCE FOR SCHOOL DISTRICTS

Two recent decisions of the U.S. Supreme Court clarify the scope of parental rights. These cases recognize that policies currently in place in thousands of American school districts are illegal because they violate the timeless constitutional rights of parents to free exercise of religion and to guide the upbringing of their children.

There are simple steps any school district can take to remain or become compliant with these new Supreme Court cases. The ensuing guidance has been prepared by Thomas More Society attorneys to assist school districts seeking to uphold parental rights. Taking these steps will also help minimize the risk of costly litigation.

THE PRECEDENTS

What the Supreme Court Has Decided

Mahmoud (2025)

In June 2025, the Supreme Court struck down a public school board's policy of refusing to provide parental notice and an opt-out when "LGBT+ inclusive" story books would be taught. *Mahmoud v. Taylor*, 606 U.S. 522, 559 (2025). Specifically, the Court held that failing to provide notice and an opt out from LGBTQ+ "materials and instruction" "burdens the religious exercise of parents," because it "requires them to submit their children to instruction that poses 'a very real threat of undermining' the religious beliefs and practices that the parents wish to instill." *Id.* at 553–54.

The Supreme Court's decision has broad application. It made clear that *any* "educational requirement or curricular feature," and *any* "instruction or materials," can "substantially interfer[e] with the religious development of a child," depending on the parent's particular religious beliefs and the nature of the material at issue. *Id.* at 550. Courts must consider "the specific context" in which the "instruction or materials at issue are presented," and whether "they are presented in a neutral manner, or...in a manner that is 'hostile' to religious viewpoints and designed to impose upon students a 'pressure to conform.'" *Id.* (citing *Wisconsin v. Yoder*, 406 U.S. 205, 218 (1972)). **When "instruction or materials" "substantially interfer[e] with the religious development" of children, parents must be afforded notice and the opportunity to opt-out their children from viewing the materials.** *Id.* at 550.

Mirabelli (2026)

In the wake of *Mahmoud*, Thomas More Society attorneys obtained an injunction in federal court against enforcement of gender secrecy policies in the State of California, which the Supreme Court then affirmed on preliminary review. *Mirabelli v. Bonta*, 146 S. Ct. 797 (2026). The Supreme Court affirmed that both religious *and non-religious* parents have a fundamental constitutional right to be informed and to object prior to a school facilitating their child's social gender transition. The California court has since ordered the State to pay Thomas More Society nearly $5 million in attorneys' fees and costs as a result of its clients' win.

The Court held that California's "policies cut out the primary protectors of children's best interests: their parents." *Id.* As such, the rights of *all* parents, religious or otherwise, are violated by these policies, "on due process grounds." *Id.* at 803 (citing 100 years of Supreme Court precedents). **"The right protected by these precedents includes the right not to be shut out of participation in decisions regarding their children's mental health... These policies likely violate parents' rights to direct the upbringing and education of their children."** *Id.* (emphasis added).

The Supreme Court's decision in *Mirabelli* is most directly applicable to all "transgender student" policies throughout the nation to the extent they do not provide—or even forbid—parental notification and otherwise bypass parental control in situations where a child in K-12 purportedly "identifies" as a gender other than his or her own biological sex. Applying *Mahmoud*, the Supreme Court held that California's "intrusion on parents' free exercise rights here—unconsented facilitation of a child's gender transition—is *greater* than the introduction of LGBTQ storybooks we considered sufficient to trigger strict scrutiny in *Mahmoud*." *Mirabelli*, 146 S. Ct. at 802 (emphasis added).

GUIDANCE

Guidance for All School Districts

Applying the above precedents, Thomas More Society offers the following general guidance to all school districts:

RECOMMENDATION 1

Immediately and expressly adopt a parental notice and opt-out policy that:

- **Provides for prominent, regular notice**, designed to reach all parents, informing them of their ongoing constitutional **rights to opt their children out** of any instruction, electronic applications, materials (including those provided in a classroom or school library or on school-issued electronic devices or digital platforms), or activities that, **in their judgment**, burden their families' religious or other closely held beliefs;
- **Requires prompt and effective notice of any specific forthcoming** instruction, electronic applications, materials (including those chosen for inclusion in a classroom or school library or on school-issued electronic devices or digital platforms), or activities that the district has reason to believe are likely to burden the religious or other closely held beliefs of district families. To be effective, such notice will be reasonably designed to reach all parents, inform parents of the content giving rise to

the need for notice, and give parents reasonable and sufficient time in advance to consider submitting opt-outs;

- **Invites families to submit opt-outs** identifying and putting the school district on notice of instruction, electronic applications, materials, or activities that will burden their religious or other closely held beliefs, whether or not their beliefs are shared by other families or otherwise known to the district;
- **Assigns responsibility to a district employee or employees** for implementing opt-outs submitted by district families, including by providing reasonable alternative instruction to all students whose parents opt them out of particular instruction, electronic applications, materials, or activities; and
- **Requires all school employees to proactively notify parents** of any information employees receive or possess, from any source, that affects, reflects, or otherwise bears upon their children's health, including mental health.

RECOMMENDATION 2

Immediately and expressly repeal or revoke any formal or informal policies that:

- Require or permit school employees to **conceal or forgo sharing with parents** information relating to their children's **health, including mental health**; or
- **Otherwise facilitate a child's social gender transition**, including with respect to bathroom and locker room access, sex-segregated extracurricular activities, etc., without the consent of the child's parent.

This document provides general guidance, is for educational purposes only, does not constitute legal advice, and does not create an attorney-client relationship with Thomas More Society. You should consult your own counsel regarding your specific situation.

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