



PRESENTS

POLICY HIGHLIGHTS

October 31, 2025

Attempting to Navigate Opt-Out Requests in Response to *Mahmoud v. Taylor*

Background

On June 27, 2025, the Supreme Court of the United States issued a 6–3 decision in *Mahmoud v. Taylor*, holding that a public-school district’s refusal to offer parents an opt-out from instruction involving LGBTQ+-inclusive storybooks violated the First Amendment’s Free Exercise Clause.

The case arose when the Montgomery County Board of Education (Maryland) introduced a set of children’s books featuring LGBTQ+ characters for elementary grades, initially permitting parents to opt their children out, but later rescinding that opt-out option, citing “unworkable burdens” and disruptions.

In the majority opinion, the Court emphasized that parents have the constitutional right to direct their children’s religious upbringing and that government policies forcing children to participate in instruction that “poses a very real threat of undermining” parents’ religious beliefs can burden their free exercise rights. Making it particularly challenging for school districts, the ruling does *not* prohibit inclusive curricula per se, nor does it define every scenario in which opt-out must be offered—but it makes clear that schools may face a constitutional obligation to provide *notice* and the *opportunity to opt-out* when a lesson conflicts with parental religious beliefs.

Complicating matters, the scope of the opt-out decision suggests that, at a minimum, it likely requires that any “LGBTQ+ storybook” that is part of the elementary school curriculum be included in the opt-out scope. However, the Court’s reasoning may be interpreted to apply to other instructional content that parents could view as substantially interfering with their children’s religious development.

For superintendents and boards of education, the Mahmoud decision raises immediate practical questions: How should districts respond when parents object to instructional content on religious grounds? How can policies and procedures be structured to comply with the ruling while preserving challenging, engaging, and meaningful curricula? With this lack of clarity, it is likely that we’ll see more legal challenges and perhaps tools to assist districts in their decision-making. Until then, superintendents are best advised to consult with legal counsel for assistance with specific matters that arise. From a policy perspective, CABE provides a model policy, [Exemption from Instruction, 6144.1](#), to assist boards in providing opt-out guidance. In addition, the following offers additional policy and practical ideas to help you through the current haze created by this decision.

Define what triggers opt-out rights:

While the Court did not adopt a bright-line rule for every curricular matter, the decision holds that when instruction is designed to promote particular values that conflict with a parent's sincere religious beliefs and the parent is not given notice or an opt-out, the district must allow the parent to opt out. Districts should therefore draft language clarifying: (i) the types of lessons that might trigger an opt-out (e.g., values-based discussion of gender/sexuality, family structure); (ii) the method by which parents will be notified; (iii) the procedure for making an opt-out request.

Advance notice:

The ruling emphasizes that parents must be given advance notice when the instruction will occur and the opportunity to excuse their child. Teachers might consider building into their instructional calendars or course outlines a "parent notice" step for lessons that may raise religious-based objections—and include timelines, alternative assignments, and documentation.

Accommodation:

One of the district's arguments rejected by the Court was that allowing opt-outs would cause undue disruption. However, the Court found the district's prior practice of granting opt-outs undercut that argument. Nonetheless, districts should plan for reasonable accommodation, such as alternative instruction or assignments, while preserving classroom continuity.

Respect for inclusive curricula:

It is important to acknowledge that *Mahmoud* does *not* compel the removal of inclusive content or force districts to avoid age-appropriate instruction involving LGBTQ+ individuals or other protected classes. Districts must continue to comply with nondiscrimination laws and their obligations, while balancing parental rights under the Free Exercise Clause of the Constitution.

Developing an operational process for opt-out requests:

- a) Create a standardized opt-out request form whereby a parent indicates the specific lesson or material they wish their child excused from, a statement of the religious basis for their objection (while respecting privacy rights), and the alternative instruction proposed (or accepted) by the teacher.
- b) Specify a reasonable deadline for submitting the request and develop a process for notifying the teacher, preparing alternative assignments and oversight, and tracking attendance.
- c) Plan for how alternative instruction will be provided: independent study? Supervised alternative reading? Work in another classroom? Present a different assignment, aligned with the lesson's learning objectives?
- d) Develop a system for maintaining records of opt-out requests, responses, alternative assignments, and attendance. Such records may help the district demonstrate compliance and consistency in applying the policy — an important consideration under the Court's ruling.

Communication:

- a) Develop a process for rolling out to parents an explanation of the opt-out policy, contextualized within the district's values of inclusive curriculum and respect for parental religious beliefs. Consider FAQs that provide insight into what types of content are eligible, how requests work, timelines, and implications for student learning.
- b) Teachers should understand the opt-out process, their responsibilities, including but not limited to notifying parents and preparing alternative assignments, and how to manage student transitions without stigma. School administrators should be trained in documentation, timelines, and avoiding unequal treatment of students.
- c) While accommodating opt-out requests, it is equally vital to uphold the message that curricula include diverse perspectives and that students with different identities and families will continue to be affirmed and respected. Districts should communicate that the rights of one group to opt out do not imply that other students' identities are to be concealed or diminished.

Curriculum review and materials:

- a) Review curriculum to identify units or materials that may trigger opt-out requests. Such subjects may address gender identity, family composition, sexual orientation, or other religiously sensitive topics.
- b) Consider whether certain materials should be optional, rather than required, particularly when they may raise a higher risk of objection. For example, supplemental readings, library units, or optional discussion groups may allow for greater flexibility.
- c) Any alternative instruction should still meet the learning objectives of the course to ensure that students excused from a particular lesson are not academically disadvantaged.

Protecting operational integrity:

- a) Although Mahmoud ruled to protect parent rights, the Court acknowledged a compelling interest in uninterrupted instruction. Districts should monitor patterns of opt-out requests, as large numbers of simultaneously removed students may signal operational risk and require alternative strategies or policy review.
- b) As with all policies, this should be applied uniformly, regardless of the parent's specific religious belief or objection. Uneven treatment may lead to claims of discrimination.
- c) The district should continue to meet its obligations under federal and state anti-discrimination statutes and regulations.

Policy and Legal Review:

- a) Have legal counsel review the district's opt-out policy, considering the Mahmoud ruling, to ensure that the language is compliant, clearly defines triggers, establishes notice procedures, alternative pathways, and timelines.
- b) Along with administration monitoring opt-out data, identifying trends, and making the necessary adjustments, the board should receive periodic updates on policy application, operational and learning impact, and proposed adjustments.

The *Mahmoud v. Taylor* decision underscores that parents' rights to direct their children's religious upbringing extend to the public school setting, particularly when a lesson conflicts with their sincerely held religious beliefs. At the same time, the decision does not upend inclusive curricula or require districts to eliminate instruction involving LGBTQ+ or other diverse perspectives. Instead, it requires thoughtful policies around notice, opt-out procedures, documentation, equity, and operational management.

For superintendents and boards, the challenge is to adopt policies and procedures that respect parental religious objections where constitutionally required, preserve the integrity and inclusiveness of the educational program, prevent undue disruption, ensure fairness, and maintain compliance with legal obligations – a tall and complicated order, indeed.