

PARENTAL RIGHTS IN EDUCATION



The Free Exercise Clause protects parents' freedom to direct their children's education and to impart sincere religious beliefs to them, without government interference.[1] Parents do not give up these rights when they choose to send their children to public school.

Since the "child is not the mere creature of the state," public schools must defer to "those who nurture him and direct his destiny" since parents "have the right, coupled with the high duty, to recognize and prepare him for additional obligations." [2] Even the government's important interest in the education of children does not outweigh the fundamental rights of parents, especially "with respect to the religious upbringing of their children." [3] The Supreme Court of the United States has consistently held for at least 100 years that the First Amendment is a "charter of rights of parents to direct the religious upbringing of their children." [4]

Public education is no exception. As a public benefit, public education cannot be conditioned "on parents' willingness to accept a burden on their religious exercise." [5]

Instead, as the Supreme Court recently declared in *Mahmoud v. Taylor*, the "government burdens the religious exercise of parents when 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." [6]

Thankfully, by law most states already require parental opt-outs from sexual education in the context of a health unit. But parents deserve more, because curriculum and class discussions throughout the school day on certain topics may burden parents' right to direct the religious upbringing of their children. Where the teaching would substantially interfere with families' religious beliefs, the Supreme Court's decision in *Mahmoud* holds that schools must provide advance notice and opt-outs, because to deny that would place "an unconstitutional burden on the parents' rights to free exercise of their religion." [7]



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If concerned that school curricula or class assignments may substantially interfere with their religious beliefs, parents should consider the following:

- Parents should meet with teachers and administrators before the school year and provide written requests for advance notice and opt-outs on topics where instruction would substantially interfere with their religious beliefs, including but not limited to human sexuality and gender identity instruction.
- Parents have a right to review the curriculum being presented to their own children in school.
- School administrators may not show hostility toward parents or students because of opt-out requests on certain topics.
- All parents need to state is that their request is based on their sincere religious beliefs, and that teaching on certain topics would substantially interfere with the religious upbringing of their children.

Schools are required to accommodate families' religious beliefs regardless of whether school officials agree with or share those beliefs. If parents receive any pushback from school administrators, or have additional questions about specific topics or school situations, please contact First Liberty Institute at **FirstLiberty.org**.

1. *Wisconsin v. Yoder*, 406 U.S. 205, 214 (1972).

2. *Pierce v. Soc'y of the Sisters of the Holy Names of Jesus & Mary*, 268 U.S. 510, 535 (1925).

3. *Yoder*, 406 U.S. at 214.

4. *Id.* at 205.

5 *Mahmoud v. Taylor*, 145 S. Ct. 2332, 2359 (2025).

6. *Id.* at 2342 (citing *Yoder*, 406 U.S. at 218).

7. *Id.* at 2363.



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