

Legal Primer:

Mahmoud v. Taylor



The case:

In 2022, Montgomery County Public Schools (MCPS) added LGBTQ+ inclusive storybooks to their elementary school English curriculum. Initially, parents could opt their children out of these lessons. However, after many opt-out requests and concerns about classroom disruptions, the school district removed the opt-out option, requiring all students to participate.

The legal challenge:

Parents from various religious backgrounds sued MCPS, arguing that forcing their children to be exposed to LGBTQ+ content without an opt-out policy violated their constitutional right to direct their children's religious upbringing. The parents asked the court to temporarily block the policy while the case was litigated. The lower and appellate courts denied the parents' request, and the parents appealed.

The Supreme Court's decision:

The Court **sent the case back to the lower courts, while ordering that MCPS resume offering opt-outs**. To reach this outcome, the Court found that the school's policy placed such a burden on the parents' religious exercise that it triggered the most stringent standard of judicial review (called "strict scrutiny"). In its decision, the Court stated the school's parents have a right to notice and to an opportunity to opt their children out of reading LGBTQ+ storybooks.

Immediate impact:

The Court clarifies that the ruling **does not** speak to any parental right to "micromanage the public school curriculum." Instead, it **holds that schools offering LGBTQ+ storybooks must provide parents with "notice" and the opportunity to opt their child out** of lessons involving this content, on religious grounds. The ruling does not offer guidance regarding what it means by "notice," or how "broad opt-outs" should work. It does not appear to require that a school's "notice" must specifically highlight potentially objectionable content. Under this ruling, schools may presumably provide notice about the full range of lessons, syllabi, and materials that will be used in a given term, as long as the school also provides information about how parents can opt their child out of programming that impedes their religious exercise.

Bottom line:

On its face, **this is a relatively limited ruling**. Activists are understandably concerned that this decision paves the way for more regulation in future cases, since its holding turns on the premise that educational content itself can create a "pressure to conform" that threatens the free exercise of religion. However, **this specific ruling does not ban books, prevent discussions of LGBTQ+ issues more broadly at school, or require schools to obtain affirmative consent from parents to teach LGBTQ+ content**. Moreover, the children's age was a significant factor in this ruling: future cases may clarify that the relationship between what children learn and their parents' religious exercise is weaker for older children and teens.

Questions? Contact us at sdavidson@educateusaction.org.

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