

June 30, 2025

**U.S. SUPREME COURT ISSUES PRELIMINARY INJUNCTION IN FAVOR OF  
PARENTS SEEKING RELIGION-BASED OPT OUTS FROM CURRICULAR  
LGBTQ+-INCLUSIVE STORYBOOKS IN *MAHMOUD v. TAYLOR***

On Friday, June 27, 2025, the U.S. Supreme Court issued a 6-3 decision in *Mahmoud v. Taylor*, ruling in favor of a group of parents of students in grades K-5, who sought a preliminary injunction for advance notice and opting out of instruction using “LGBTQ+-inclusive” storybooks.

During the 2022-2023 school year, the Board of Education of Montgomery County Public Schools, Maryland, selected 13 LGBTQ+-inclusive texts for use in the pre-K through 12<sup>th</sup> grade English and Language Arts curriculum. At issue in *Mahmoud v. Taylor* were five inclusive storybooks approved for kindergarten through fifth grade. The storybooks explored themes such as transgender identity, same-sex attraction, and gay marriage. The School Board provided teachers with professional development on using the books in classroom instruction and discussion with students, and how to address questions from parents. Initially, the School Board’s policy was to give advance notice to parents of when the storybooks would be taught and to permit them to have their children excused from instruction. In March 2023, the School Board issued a statement informing parents that they would no longer receive advance notice of instruction using the storybooks, nor would parents have the ability to opt-out their children from the instruction. The School Board stated that it changed its policy because principals and teachers could not accommodate the increasing number of opt-out requests without causing significant disruption to the classroom environment. Over 1,000 parents, representing a variety of religions, signed a petition requesting restoration of opt-out rights on the basis that the LGBTQ+-inclusive storybooks went against their religious beliefs. The School Board did not reverse its policy for the storybooks; it did continue to permit parents to opt-out for other curriculum areas as required by Maryland law, such as the “family life and human sexuality” unit of instruction.

A group of Christian and Muslim parents of elementary-aged students, along with an unincorporated association of parents and teachers that formed to “advocate for the return of parental notice and opt-out rights in the Montgomery County Public Schools,” sought an injunction in federal court to obtain such notice and opt-out rights.

The U.S. District Court for the District of Maryland denied the parents' request, and a divided panel for the U.S. Court of Appeals for the Fourth Circuit affirmed the lower court's decision. The U.S. Supreme Court reversed the Fourth Circuit's decision, holding that the parents had shown they were likely to succeed on the merits of their constitutional claims and were, therefore, entitled to a preliminary injunction.

Specifically, the U.S. Supreme Court held that the parents were likely to succeed on their claim that the School Board's policy unconstitutionally burdened their First Amendment right to free exercise of religion. The majority opinion explained that the Court has recognized limits on the government's ability to interfere with a student's religious development in a public school setting. The Court described the books as "clearly designed to present certain values and beliefs as things to be celebrated and certain contrary values and beliefs as things to be rejected," and as carrying a "very real threat of undermining the religious beliefs that the parents wish to instill in their children." The Court rejected the School Board's characterization of the books as "mere exposure to objectionable ideas" or lessons in "mutual respect," and described the School Board's inclusion of the books in the curriculum as "unmistakably convey[ing] a particular viewpoint about same-sex marriage and gender," and "encourag[ing] teachers to reinforce this viewpoint." The Court held that the School Board's use of the storybooks, combined with its decision to withhold notice to parents and to forbid parent opt-outs, substantially interfered with the parents' ability to direct the religious development of their children.

Having determined that the storybooks and lack of opt-out policy burdened the parents' right to free exercise of religion under the First Amendment, the Court then applied a "strict scrutiny" standard to the School Board's use of the storybooks in the curriculum and lack of parent opt-outs. To survive this high standard, the School Board has to show that its policy "advances interests of the highest order and is narrowly tailored to achieve those interests." The Court rejected the School Board's assertion that the books and no-opt-out policy served a compelling interest in maintaining a school environment that is safe and conducive to learning for all students, and that permitting opt outs would cause significant disruption to the school environment and isolate certain students. The Court emphasized that the School Board allowed opt outs in other contexts and that several states permit broad opt outs from discrete aspects of the public-school curriculum "without widespread consequences."

As such, the U.S. Supreme Court determined that the parents were likely to succeed in their Free Exercise Clause claims and, therefore, were entitled to a preliminary injunction pending the completion of the lawsuit. The Court reversed and remanded the case back to the Fourth Circuit. Until all appellate review in the case is

completed, the ruling requires the School Board to notify parents in advance whenever one of the LGBTQ+-inclusive storybooks at issue, or a similar book, is to be “used in any way” and to allow parents to excuse their children from that instruction.

Because the U.S. Supreme Court remanded the case for further proceedings, the case may involve additional rulings that clarify the nature and scope its application. In the interim, it is reasonable to anticipate that Illinois school districts and special education cooperatives will receive an increase in requests from parents/guardians to receive advance notice and to be afforded “opt-out” rights related to curriculum.

Please contact any of the ECB&S attorneys at 630.313.4750 to address responses to these requests or to discuss any questions you may have regarding this decision or its implications.