



Best Practices for Supporting Inclusive Education Following *Mahmoud v. Taylor* **Legal Explainer and FAQs**

This resource is intended for educators and their unions as general guidance on supporting inclusive education in the wake of the Supreme Court’s decision in *Mahmoud v. Taylor*. This guidance is intended for educational purposes only, and is not legal advice. If you have questions about your school’s policies, contact your union representative or your association’s legal counsel.

SUMMARY OF THE CASE

In *Mahmoud v. Taylor*, a group of parents from different religious faiths sued to challenge Montgomery County Public School’s (“MCPS”) decision not to allow parents to opt-out their children from reading certain elementary storybooks. MCPS had included storybooks that featured LGBTQ+ characters and themes in the reading curriculum as possible readings to promote an inclusive school environment that better reflected the diversity of the community. Although MCPS initially had allowed for religious opt-outs of students from reading the books, when opt-outs became administratively unmanageable and inconsistent with the purpose of exposing students to diverse characters and ideas, MCPS announced that it would no longer allow any opt-outs.

The plaintiff parents sued seeking to require MCPS to notify them when the books would be used and allow them to opt their children out of reading them. The district court rejected this challenge, and the Fourth Circuit Court of Appeals upheld the district court’s decision. The Supreme Court granted certiorari on the question: “Do public schools burden parents’ religious exercise when they compel elementary school children to participate in instruction on gender and sexuality against their parents’ religious convictions and without notice or opportunity to opt out?”

The Supreme Court answered that question, “Yes,” holding that the parents did have the right to notice and an opportunity to opt their child out of reading the books. The Court explained that a public school “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,” and that the “government cannot condition the benefit of free public education on parents’ acceptance of such instruction.” The Court considered factors including that the books supposedly presented a positive normative view of LGBTQ+ relationships and identities (e.g., other characters in the story expressing happiness for a same-sex couple or affirming a trans child) and the age of the children in question (elementary school students). As a result of the ruling, MCPS was required to notify the plaintiff parents of “any use” of the challenged texts or “any similar” book and to allow them the opportunity to opt out.

The Court's decision hinged on the specific facts of the case and did not create a clear general rule, leaving room for school districts to respond to the ruling in a way that provides the required notice and the opportunity to opt out while still running an effective school system.

MAJOR TAKE-AWAYS

This decision has rightly caused concern that it will be used to undermine safe and inclusive schools for all students. Some right-wing groups have seized on the decision to continue to push harmful policies that target LGBTQ+ students and families, and some have attempted to wrongly portray the decision as requiring schools to censor books or curriculum or to change policies that respect and affirm transgender students.

In the current climate of relentless attacks and dehumanizing rhetoric toward transgender students, as well as the attempts to erase historical injustices and deny the realities of racism, it is more important than ever to support inclusive curriculum and policies that support and affirm all students and families. In that context, the key points to take away from this decision are:

- 1) This is not a book ban. Schools do not have to remove any books from classrooms or school libraries; nor do they have to censor the curriculum in any way. LGBTQ+ inclusive books and curriculum are not presumptively objectionable.
- 2) The decision does not prohibit teachers from acknowledging LGBTQ+ identities or answering student questions. Nor does it allow “opt outs” from interacting with LGBTQ+ students, staff, or families. Nondiscrimination protections remain in place, and schools should continue to foster an inclusive environment where everyone is acknowledged and treated with respect.
- 3) This decision does not impact any student's rights to be themselves, to talk about LGBTQ+ issues, and to have student clubs like GSAs on the same conditions as other student extracurricular clubs.
- 4) Schools must allow parents and guardians to opt their child out of instruction that substantially interferes with their child's religious development or “undermin[es] the religious beliefs and practices the parent wishes to instill in the child.” This opt-out right is limited to religious objections, and does not include political, ideological, or moral objections.
- 5) State laws and individual school district policies concerning religious opt-outs vary greatly from state to state. Most districts already have opt-out policies in place that should be evaluated to determine if they are sufficient to provide parents with the required notice and opportunity to have their child excused from instruction that substantially interferes with their religion.
- 6) Educators and school administrators do not have an obligation to make guesses about what religious beliefs anyone holds or what may be objectionable based on those beliefs. It is the

responsibility of the parent or guardian to assert a religious belief they want the school to accommodate.

- 7) The decision emphasized the young age of the students in this case (elementary school students). While the Court didn't create a bright-line rule, it strongly implied that religious objections to exposure to LGBTQ+ topics (and presumably other topics about which a parent may have a religious objection) are particularly forceful when focused on younger students.

POTENTIAL IMPACTS & BEST PRACTICES

As school districts and individual school administrators determine what may be needed to implement the requirements of the *Mahmoud* decision, the impacts on school policies and practices will vary greatly. In some districts, no changes may be required; in others, districts may adopt new policies or change the process for religious accommodations. Where policies are changed and as issues arise that impact the school environment, educators and their unions have an important role to play in advocating for best practices that ensure fairness, respect the needs of all students, and reduce administrative burdens. Below are suggested best practices in key areas.

NOTICE TO PARENTS:

- **No clear rule.** It is not clear from the decision what level of notice is required. In the specific facts at issue in *Mahmoud*, the parents were already on notice about the books in question and had objected to their children using the books. Parents/guardians already have the right to inspect curriculum upon request, and many schools proactively provide information about their curriculum in a variety of ways.
- **Guidance from state laws.** The Court favorably cites the Minnesota law detailed below as an example of an opt-out policy that would presumably satisfy the requirements of the decision. The Minnesota law requires that schools generally have a procedure that allows parents/guardians to review instructional materials by providing as follows:
 - “Each school district shall have a procedure for a parent, guardian, or an adult student, 18 years of age or older, to review the content of the instructional materials to be provided to a minor child or to an adult student and, if the parent, guardian, or adult student objects to the content, to make reasonable arrangements with school personnel for alternative instruction.” Minn. Stat. §120B.20.
- **Neutral notification.** If schools choose to provide some kind of affirmative notice beyond an existing policy, that notice should be neutral regarding inclusive content and should not single out LGBTQ+ issues or other topics. That is, it should not guess at what topics any family may find objectionable based on religious beliefs.
 - Possible examples:

- A school may ensure that curricula are generally made available and that student assignments are posted online through a parent portal, allowing parents to undertake their own investigation.
- A school may provide parents a notice at the beginning of each school year indicating that the curriculum includes certain instructional materials that contain messages promoting respect, tolerance, and inclusion, and directing parents to contact specific personnel if they want information on these materials.

OPT OUT PROCEDURES AND FORMS:

- **Guidance from state law examples.** Helpfully, the *Mahmoud* opinion does cite favorably three state laws as examples of adequate opt-out procedures, and none impose significant burdens on school districts. As detailed below, all three generally provide that schools must have some process for objections to be raised and for those students to be granted an exception from the instructional material or activity.
 - Minn. Stat. §120B.20 (2024): “Each school district shall have a procedure for a parent, guardian, or an adult student, 18 years of age or older, to review the content of the instructional materials to be provided to a minor child or to an adult student and, if the parent, guardian, or adult student objects to the content, to make reasonable arrangements with school personnel for alternative instruction. Alternative instruction may be provided by the parent, guardian, or adult student if the alternative instruction, if any, offered by the school board does not meet the concerns of the parent, guardian, or adult student. The school board is not required to pay for the costs of alternative instruction provided by a parent, guardian, or adult student. School personnel may not impose an academic or other penalty upon a student merely for arranging alternative instruction under this section. School personnel may evaluate and assess the quality of the student's work.”
 - 22 Pa. Code §4.4(d)(3) (2025): “School entities shall adopt policies to assure that parents or guardians have the following: The right to have their children excused from specific instruction that conflicts with their religious beliefs, upon receipt by the school entity of a written request from the parent or guardians.”
 - Ariz. Rev. Stat. Ann. §§15–102(A)(4): “Procedures by which parents who object to any learning material or activity on the basis that the material or activity is harmful may withdraw their children from the activity or from the class or program in which the material is used. Objection to a learning material or activity on the basis that the material or activity is harmful includes objection to the material or activity because it questions beliefs or practices in sex, morality or religion.”
- **No requirements beyond Mahmoud.** Some right-wing groups have been encouraging their members to submit extensive opt-out requests, such as using form letters that assert a right to “opt-out” of participation in broad and often vaguely defined aspects of the school environment. Schools have no obligation to honor requests that go beyond the requirements of the *Mahmoud* decision (which is limited, among other ways, to religious objections) and existing federal and state law. When schools receive opt-out requests that are not in

conformance with their requirements, they should refer parents/guardians to their standard procedures.

- The decision only requires schools to provide opt-outs on the basis of sincerely held religious beliefs and practices. It does not require schools to grant opt-outs based on parent/guardian personal, political or ideological beliefs or preferences.
- **Standard form and sample language.** To ensure a consistent, transparent, and fair process, schools should have a standard written form for requesting a religious opt-out. When requests are received outside of the standard form, the school is on notice of a need but should advise the parent to submit the request on the standard opt-out form.
 - The standard form should use simple language and collect basic information, such as: “Parents and guardians have the right to request that their child be excused from specific instructional content that substantially interferes with sincerely held religious beliefs. Please complete the form below with detailed and specific information regarding what content you are requesting an opt-out from and on what basis.”
 - Forms should include a space for parents/guardians to 1) list specific curricular material that the parent/guardian finds religiously objectionable; and 2) identify their religion and explain why the curricular material interferes with their religious belief.
- **Relationship with existing opt-out policies.** If current opt-out procedures do not require a religious basis, schools should create a new and separate form for religious opt-outs from curricular instruction. For example, state laws and school policy often allow opt-outs from sexual health education for any reason, including non-religious reasons. To be clear about the school’s obligations under *Mahmoud*, the procedure for religious opt-out to other curricular material should be contained in a separate policy and procedure.
- **Review and approval of opt-out requests.** To ensure consistency and privacy, opt-out requests should be submitted to trained administrators and should be kept confidential. Administrators should be solely responsible for reviewing and approving religious opt-out requests. Teachers should not be involved in processing requests.
 - Educators who receive a request directly or are notified of a religious objection to curricular material should refer the parent/guardian to the appropriate administrator.

ACCOMMODATIONS:

- **Individualized and reasonable.** Although the decision itself does not specify a process for schools to use when considering requests for accommodations, in general, accommodations should be reasonable and should be made based on the individual needs of the student. When schools are considering requests for religious accommodations, they should engage in an interactive process with the family based on their individual religious objection in order to reach a reasonable accommodation. What may constitute a reasonable

accommodation may take into account the school's resources, staffing, and impacts on the school environment.

- ***Nondiscrimination, anti-harassment, and anti-bullying obligations.*** In implementing opt-out policies and determining a reasonable accommodation for individual opt-out requests, schools should consider the impact on other students and the school climate. Schools continue to have legal and ethical obligations to protect all students from discrimination and harassment on the basis of race, sex (including sexual orientation and gender identity), national origin, disability, and other protected characteristics. Many schools are also covered by anti-bullying laws or policies that protect all students against bullying.
- ***Burdens on educators.*** If a school's opt-out policy or the accommodations provided under it impose additional burdens on educators, such as requiring teachers to create separate lessons for students who have been excused from a lesson or requiring additional staffing to supervise students who are removed from the classroom, this may trigger bargaining requirements in states with bargaining rights. Even in non-bargaining states, local unions play an important role in advocating for members when new requirements impact working conditions.
 - In states with bargaining rights, local unions, in consultation with their state affiliate, should request to bargain over the implementation and/or effects of new policies.
 - In non-bargaining states, local unions should track any impacts on instructional time and any additional burdens imposed on educator members, and should seek to address those burdens with management.

INCLUSIVE EDUCATION:

- ***State requirements.*** Many states still affirmatively require inclusive education, and the *Mahmoud* decision does not change those requirements.
 - For state laws requiring LGBTQ+ inclusive education, see [Movement Advancement Project | LGBTQ Curricular Laws](#)
 - Even where state law does not include LGBTQ-inclusive curricular standards, general state standards may include components that recognize diverse identities and encourage respect and tolerance.
- ***Schools have a right to continue to provide inclusive curriculum.*** Recent court decisions, including in a case brought by NEA, have affirmed the right of schools to provide inclusive curriculum: [NEA Defends Inclusive Education and Wins – What you Need to Know | NEA](#)
- ***Importance of inclusive education.*** Curriculum that allows all students to see themselves, and which includes the full diversity of our identities, history and experiences, as well as policies that promote respect and tolerance for all students, families, and school staff are

important for the education, safety, and wellbeing of all students. Following are some resources that can be cited in support of inclusive education:

- National Education Association and the Law Firm Antiracism Alliance: *The Very Foundation of Good Citizenship: The Legal and Pedagogical Case For Culturally Responsive and Racially Inclusive Public Education for All Students*, [lfaa-nea-white-paper.pdf](#)
- GLSEN: [Inclusive Curriculum Standards | GLSEN](#): *Representation of LGBTQ+ and Other Marginalized Communities Promotes Student Achievement and Wellbeing*
- American Psychological Association: *School-Based Risk and Protective Factors for Gender Diverse and Sexual Minority Children and Youth*, [risk-factors.pdf](#)
- Wojciech Kaczowski, Jingjing Li, Adina C Cooper, and Leah Robin: [Examining the Relationship Between LGBTQ-Supportive School Health Policies and Practices and Psychosocial Health Outcomes of Lesbian, Gay, Bisexual, and Heterosexual Students - PubMed](#)
- U.S. Center for Disease Control & Prevention: *LGBTQ-Supportive School Policies and Practices Help All Students Thrive*, [Wayback Machine](#)

ADDITIONAL RESOURCES

Below are other resources that provide general guidance, or in the case of state-specific guidance, illustrate how different states are applying the decision. If you have questions or want to discuss how *Mahmoud* specifically affects your school or applies to an individual situation, please reach out to your union representative or legal counsel.

- Human Rights Campaign: [LGBTQ+ Inclusive Curriculum: What School Staff Need to Know About Mahmoud v. Taylor](#)
- CA Department of Education, non-binding guidance: [Supreme Court Decision in Mahmoud v. Taylor - Laws & Regulations \(CA Dept of Education\)](#)
- ACLU of Southern California: [LEGAL FAQ: Supporting Inclusive Education in California After Mahmoud v. Taylor | ACLU of Southern California](#)
- PA Education Law Center: [Mahmoud-Religious-Opt-Out-Analysis-2025.pdf](#)
- National Women's Law Center Resource: [Breaking Down the Supreme Court's Decision in Mahmoud v. Taylor: Why It is More Important Than Ever to Advocate for Inclusive Schools - National Women's Law Center](#)